

## Part 2, Section 7

### Scheme of Delegation to Officers

It is acknowledged that the role of Officers is to take operational decisions in the manner that they consider is most appropriate given their managerial and professional expertise, and that no specific delegations are required in order for Officers to carry out the administration of the services for which they are responsible.

The purpose of this Scheme of Delegation is rather to provide clarity for the undertaking of activities that for governance reasons require formal authorisation.

Formal delegations have been approved by the relevant Council body with responsibility for the particular function, and this may be Council, a Regulatory or other Committee of Council, or, in the case of executive functions, the Leader or Cabinet.

All the delegations within this Scheme are to be undertaken within:

- The policies and strategies of the Council within the Policy Framework;
- Any legal constraints imposed on the Council;
- The financial provision authorised by the Cabinet and the Council;
- Any relevant provisions within the Constitution.

This Scheme of Delegation should be read in conjunction with the Council's Financial Regulations, including the Contract Procedure Rules, and the Treasury Management Framework.

Any reference to any Act of Parliament includes references to Regulations and other subordinate legislation made thereunder and to any EU legislation on which the UK legislation is based. References to any Act, Regulation, Order or Byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.

Subject to any express instruction to the contrary from the delegating body, any power to approve also includes power to refuse, power to impose appropriate conditions and power to amend decisions.

Generally, any power delegated to a Director may be exercised by the Chief Executive, and any power delegated to any other Officer may be exercisable by the Officer's Director or the Chief Executive. However, it should be noted that this is subject to any specific statutory restrictions. For example, under Health and Safety legislation, some powers may only be exercised by qualified "inspectors".

Any delegation to the Chief Executive may in his/her absence be exercised by a Director. Formal urgent decisions will be taken in consultation with the appropriate elected Councillor(s) in accordance with the Constitution. It is anticipated that the delegated authority would be exercised (taking account of any comments from the Monitoring Officer and the Chief Finance Officer), by the most appropriate Director given the subject matter for decision, or, in the absence of that Director or where the decision is general in nature, by the Director/Deputy Director or Senior Emergency Officer on duty at the time.

This Scheme of Delegation covers both executive and non-executive functions and is subject to the 'cascade' principle and, unless excluded by statute, bestows the power for the Chief Executive and Directors to further delegate in writing all or any of these functions to other Officers (described by post title) either fully or in part and subject to such limitations as considered reasonable by the

delegating Officer. Any such delegation must be evidenced in writing, dated and signed by the Officer delegating the authority, with a copy supplied to the Democratic Services Manager. The Officer delegating the function remains responsible for ensuring that delegated decisions are properly taken by sufficiently senior and experienced Officers and for the decisions taken.

The cascade principle under which the Scheme of Delegation operates means that any Officer given powers under the Scheme can further delegate those powers to other Officers either:-

- through a Local Scheme of Delegation (which sets out all the standing delegations given to specific Officers in defined areas of the Council's service areas). A full list of the Local Schemes of Delegation can be viewed [here](#). Any of the schemes can be looked at in detail; or
- through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the Officer delegating the power with a copy supplied to the Democratic Services Manager.

A Specific Delegation does not need to be given where an Officer is given delegated powers to action a particular decision by Council, Cabinet or a Committee or Sub Committee.

All Local Schemes of Delegation (and any changes to them) must be agreed by the Monitoring Officer. The Monitoring Officer shall be authorised to amend the Scheme of Delegation to reflect re-organisations, changes in job titles and vacancies (where such changes result in redistributing existing delegations), to reflect legislative changes and to effect Councillor decisions. Any post specifically referred to in the Scheme of Delegation shall be deemed to include any successor post, and shall include any Officer acting up or seconded.

Where a function has been delegated to an Officer (including where sub-delegated through the Cascade principle), the person or body making the delegation may at any time exercise the function concurrently or take back responsibility for the function and may therefore exercise the function (make the decision) despite the delegation.

Equally an Officer may consider a decision to be of such importance or sensitivity that their delegated authority should not be exercised in any particular case and may refer the matter back to the delegating body for decision.

Where an Officer is authorised or designated by virtue of this Scheme of Delegation as an authorised Officer for the purposes of any legislation, that authorisation (unless it specifically states to the contrary) shall be deemed to authorise that Officer to undertake all the powers and duties of an authorised Officer as are specified in that legislation. These may include (but are not restricted to) the power to enter on land, undertake inspections, serve notices (including the issue of fixed penalty notices), take samples and remove goods.

Where a power or duty is delegated to an Officer, either directly under the Scheme of Delegation or through designation as an authorised Officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the Officer in question has the power to determine whether or not those circumstances exist or whether those conditions have been fulfilled in the name of and with the authority of the Council.

Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything so specified.

Where a power or duty delegated under this Scheme includes at source a power to take enforcement action, and/or to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such fees costs or charges by way of civil debt or otherwise.

An Officer, in exercising delegated powers, may consult the relevant Portfolio Holder or Committee Chair if he/she considers it appropriate to do so.

## **DELEGATIONS TO THE CHIEF EXECUTIVE**

### **Matters of Urgency**

To authorise any action reasonably necessary to protect the health, safety or welfare of individuals or the safety of property;

Where it is necessary for any function to be discharged and it is impracticable or impossible by reason of urgency for the matter to be considered by the Cabinet (or by the relevant Portfolio Holder), to take such action as they consider appropriate, in consultation, so far as practicable with the Leader and relevant Portfolio Holder(s); and where there is no Leader and Cabinet all executive functions shall vest in the Chief Executive who shall be able to exercise all executive functions or authorise Officers to exercise such functions.

Where it is necessary for any function of the Council or one of its Committees to be discharged and it is impracticable or impossible, by reason of urgency, for the matter to be considered by the Council or such Committee, to take such action as they consider appropriate, in consultation, so far as practicable, with the Mayor and Group Leaders in respect of a Council function or the relevant Committee Chair in respect of a matter within the Terms of Reference of a Council Committee.

Where action is taken under the above, the Chief Executive shall submit a report to the next Cabinet, Council or Committee meeting recording the urgent circumstances which made the action necessary and detailing the action taken.

### **Other Functions**

To make applications to the Home Secretary for consent to make orders under the Public Order Act 1986 in response to an application from the Chief Constable, and to make the appropriate Order following the receipt of the Home Secretary's consent.

To determine matters arising from the Commission for Local Administration in England (the Local Government Ombudsman) in whatever manner is appropriate, including the making of local settlements.

To seek planning permission for the Council's own development or development on Council-owned land.

To grant authorisations for the purposes of Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000 (subject to the requirement for each authorisation to be approved by the Magistrates' Court).

### **Delegations from the Personnel Committee**

In respect of all posts, except JNC Chief Officer posts, to establish new posts and approve minor structural re-organisations, and to assimilate members of staff on fixed term or temporary contracts or in casual work situations into the permanent establishment.

To determine the terms and conditions of service of Council Officers within the policy set by the Personnel Committee. To determine applications for regrading.

To determine applications made by JNC Chief Officers in accordance with the provisions of the Council's Family Leave Scheme and Flexible Working Hours Scheme.

To apply the Council's Redeployment Policy including declaration of a redundancy situation and redeployment of staff.

To approve the payment of acting up and honorarium payments and severance payments, including voluntary severance, early retirement and/or voluntary redundancy, within Council policy, up to £50,000.

To approve extensions to full or half sick pay.

To approve release of preserved pension benefits in accordance with relevant pension legislation, including Certificates of Material Change.

To determine requests for late transfers into the Local Government Pension Scheme.

To suspend and to determine disciplinary, capability and grievance matters in relation to Officers except appeals against dismissal by JNC Chief Officers.

In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives, Investigation and Disciplinary Committee meetings shall be convened by the Chief Executive who will filter out and deal with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure relating to the Monitoring Officer (in consultation with the Chair of Personnel Committee).

**General Delegations from Council, Committees and Cabinet to the Chief Executive, Directors and Statutory Officers.**

To be responsible for and to exercise all functions that may fall within their job role from time to time including matters set out below.

To sign statements of truth in connection with legal proceedings on behalf of the Council.

To serve notices under Section 16 of the Local Government Act (Miscellaneous Provisions) 1976.

With regard to finance and contractual matters, to exercise any relevant authority set out in the Financial Regulations and Contract Procedure Rules for Works, Goods and Services. Designation as a Responsible Spending Officer or Contract Manager will be deemed to be designation in writing by a Director for this purpose.

In accordance with relevant legislation and any charging policy set by Council, Committees or Cabinet, to set fees and charges for services and activities.

To take all necessary actions (including the preparation of any documentation, letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet, Council or any other Councillor body.

In consultation with the Director for Economic Growth and Regeneration to issue, serve and withdraw any notices or take any other enforcement or other action.

To attest the affixing of the Common Seal to documents.

To determine matters arising from the Commission for Local Administration in England (the Local Government Ombudsman) in whatever manner is appropriate, including the making of local settlements.

To seek planning permission for the Council's own development or development on Council-owned land.

To grant authorisations for the purposes of Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000 (subject to the requirement for each authorisation to be approved by the Magistrates' Court).

To institute, defend, settle or compromise any claim or participate in any legal proceedings in any case where such action is necessary to give effect to a decision of the Council, Cabinet or Committee or in any case where he/she considers that such action is necessary to protect the Council's interests.

To do all such things as are necessary in relation to all routine matters of day to day administration and management of the Council.

#### **DELEGATIONS TO THE DIRECTOR FOR COMMUNITIES AND THE ENVIRONMENT**

Authorised to exercise the General Delegations from Council, Committees and Cabinet set out above in relation to the Chief Executive.

To administer residents' parking schemes and add properties to the Register of Excluded Properties established by Cabinet in December 2005 in respect of residents' parking schemes.

To authorise the making of Car Park Orders and the closure of Council owned public land and car parks where required to do so for operational or health and safety purposes.

To designate authorised Officers for the purposes of the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005 and the Refuse Disposal (Amenity) Act 1978, who may then act on behalf of the Council under the relevant legislation in accordance with their designation as authorised Officer.

To approve the terms and conditions of market lettings.

To approve requests for the lighting of the Ashton Memorial in recognition of national or international charity campaigns.

To serve notices and to act on behalf of the Council under any applicable environmental legislation (and any subordinate legislation, regulations or orders made under the primary acts), and to designate authorised Officers who may then act on behalf of the Council (whether under primary legislation, any subordinate legislation, regulations or orders made under the primary acts) in accordance with their designation as authorised Officer.

To waive the repayment, or to reduce the level of repayment, of right to buy discount under Section 185 of the Housing Act 2004.

Under the Anti-Social Behaviour, Crime and Policing Act 2014:

- (a) to be an authorised person for the purposes of Section 53, with authority to issue a Community Protection Notice (Section 43), and/or a Fixed Penalty Notice for breach of a Community Protection Notice (Section 48) and to authorise other Officers to act;
- (b) to be authorised to issue notices under Sections 47 and 49 in respect of Community Protection Notice works in default and to authorise such work in default to be carried out;
- (c) to be an authorised person for the purposes of Sections 63 and Section 68 (enforcement of Public Spaces Protection Orders); and
- (d) to be authorised to issue a Closure Notice for a period of up to 24 hours.

For the avoidance of doubt the Director for Communities and the Environment can designate persons who have entered into a contract with the Council for the provision of litter services as authorised Officers under Section 88(10) of the Environmental Protection Act 1990, subject to satisfactory safeguards being set out in the contract to ensure notices are issued in accordance with the law and the Council is covered by a suitable indemnity.

To grant, renew and vary site licences and collectors' licences under the Scrap Metal Dealers Act 2013, and to enter and inspect premises licensed under the Act.

To appoint Proper Officers for the purposes of the Public Health (Control of Disease) Act 1984, the Public Health (Infectious Diseases) Regulations 1988 and under the National Assistance Act 1948, Regulations 2 and 3 of the Health Protection (Notification) Regulations 2010, Sections 84 and 85 of the Public Health Act 1936, and Section 37 of the Public Health Act 1961.

To serve any statutory notice, counter-notice or document in respect of a dwelling house let by the Council and which is to be served in connection with the exercise of the functions of the local housing authority.

To serve notice and commence legal action to seek an order of possession in respect of a dwelling house let by the Council under various different tenancy arrangements or to authorise others to take such decisions and to review any decision to seek an order for possession of a dwelling

To award discretionary points and exercise any other discretion that may be appropriate to allocate council housing stock, and to undertake any review under the Housing Allocation Policy.

To nominate tenants to Housing Associations.

To serve statutory notices, directions, orders and other documents, to exercise statutory powers of entry and to undertake inspections and take enforcement action in connection with unfit, defective or otherwise substandard dwellings, or overcrowding or to address otherwise unsatisfactory conditions.

To investigate and take enforcement action in respect of unlawful eviction or tenant harassment or any offence under Housing legislation.

To determine applications for the licensing of houses in multiple occupation under the Housing Act 2004 including the granting, refusal and variation of licences and the issuing of temporary exemptions in appropriate cases as defined in the Act.

To determine applications in respect of grants in respect of dwellings, including disabled facilities grants and to waive or relax the conditions and/or requirements of approved grants.

To take action to secure the restoration or continuation of the supply of water, gas or electricity to tenanted property.

To exercise the statutory functions of the Council with regard to homelessness, including the undertaking of reviews of decisions. To administer and operate any loan/grant/other schemes intended to prevent homelessness or support care in the community.

To determine applications in respect of chimney heights under the Clean Air legislation.

The discharge of any function relating to the control of pollution or the management of air quality (including the enforcement of the provisions of the Clean Air Act 1993).

Under the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 to set and impose a penalty charge (to a maximum of £5000); to undertake the service and signing of notices; to consider and determine representations and objections; to recover the monetary penalty through a certificate signed by the Director of Corporate Services.

Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to act as Inspectors; to undertake the service and signing of notices; to set and impose a penalty charge (to a maximum of £5000); to authorise remedial work; to consider and determine representations and objections; to recover a monetary penalty through a certificate signed by the Director of Corporate Services.

To serve notices and to act on behalf of the Council under the Health Act 2006 and to designate authorised Officers who may then act on behalf of the Council under the legislation in accordance with their designation.

#### **Non-Executive functions delegated by Licensing Committee**

To investigate and enforce contraventions of Food Safety and hygiene legislation (including the Food Safety Act 1990) and regulations made under the European Communities Act 1972 (including the Food Safety and Hygiene (England) Regulations 2013).

To serve notices and to exercise all powers under Food Safety and hygiene legislation. This includes the service of improvement notices, prohibition notice, entry to food business premises, seizure, requests for information from FBOs and applications for warrants under the Food Safety and Hygiene (England) Regulations 2013.

In consultation with the Chair or Vice Chair to suspend or revoke an operator's licence under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976.

In consultation with the Chair or Vice Chair to suspend or revoke a hackney carriage or private hire vehicle licence under Section 60 or Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 and to suspend or revoke a driver's licence under Section 61, including authority to suspend a licence with immediate effect in the interests of public safety.

To grant and issue any licence, registration or other permission under any legislation within the terms of reference of the Licensing Committee, unless there are any adverse representations or other reasons why the Officer considers it appropriate to refer the matter to the Committee. This does not include authority to refuse a licence, save that the Director of Communities and the Environment and the Licensing Manager are authorised to refuse new applications for hackney carriage or private hire driver licences, where satisfied that the applicant is not a fit and proper person to hold a licence.

To approve any matters within the conditions of licences, registrations or other permissions under any legislation within the terms of reference of the Licensing Committee, which require the approval or consent of the Council.

To designate authorised Officers, who may then act on behalf of the Council, serve notices apply for warrants and take action under the Act in accordance with their designation as authorised Officer under the:

- Local Government (Miscellaneous Provisions) Act 1976;
- Local Government (Miscellaneous Provisions) Act 1982;
- Health and Safety at Work (etc.) Act 1974;
- Various Food Acts (including the Food Safety Act 1990)
- Pet Animals Act 1951
- Caravan Sites and Control of Development Act 1960
- Animal Boarding Establishments Act 1963
- Dangerous Wild Animals Act 1970 and 1991
- Breeding of Dogs Act 1973 and 1991
- Riding Establishments Acts 1964 and 1970
- Zoo Licensing Act 1981
- County of Lancashire Act 1984
- Noise and Statutory Nuisance Act 1993
- Housing and Planning Act 2016.

To allocate permits for street collections unless there are more applications than permits available.

To issue licences, registrations, permissions, orders, notices and consents and take enforcement action in relation to any regulatory function of the Licensing Committee, unless there are any adverse representations or other reasons why the Officer considers it appropriate to refer the matter to the Committee.

To advertise, grant, issue and enforce street trading licences or consents under the Local Government (Miscellaneous Provisions) Act 1982, and to set the appropriate fee or charge.

### **Non-Executive Functions Delegated by the Licensing Sub-Committee**

#### Licensing Act 2003

To determine applications for Personal Licences, including with relevant Unspent Convictions provided no Police representation has been made.

To determine applications for Premises Licences/Club Premises Certificates provided no representation has been made.

To determine applications for Provisional Statements provided no representation has been made.

To determine applications to vary Premises Licences/Club Premises Certificates provided no representation has been made.

To determine applications to vary Designated Premises Supervisor Licences.

To determine any request to be removed as a Designated Premises Supervisor.

To determine applications for transfer of Premises Licences provided no police objection has been received.



To determine applications for interim authorities provided no police objection has been received.

To determine whether any representation is irrelevant, trivial, frivolous or vexatious etc.

To agree the appropriate scale of plans required to be submitted by an applicant.

To dispense with a hearing in accordance with Regulation 9 of the Licensing Act 2003 (Hearings) Regulations 2005.

To extend time limits in accordance with Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005.

To identify points on which clarification may be required at a hearing, in accordance with Regulation 7 (1) (d) of the Licensing Act 2003 (Hearings) Regulations 2005.

To acknowledge receipt of a Temporary Event Notice under Section 102 of the Licensing Act 2003 and, where appropriate, to serve counter-notice under Section 107 of the Act.

To determine applications for minor variations to Premises Licences/Club Premises Certificates.

In consultation with the Chair of the Licensing Committee or in his/her absence the Vice Chair, authority to authorise applications for hypnotism subject to the standard conditions approved by the Committee.

#### Gambling Act 2005

To determine applications for permits for 3 or 4 gaming machines in premises licensed under the Licensing Act 2003.

To determine applications for premises licences under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for a variation to a licence under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for a transfer of a licence under the Gambling Act 2005 where no representations have been received from the Gambling Commission.

To determine applications for a provisional statement under the Gambling Act 2005 where no representations have been received or representations have been withdrawn.

To determine applications for club gaming/club machine permits under the Gambling Act 2005 where no objections have been made or objections have been withdrawn.

To determine applications for other permits under the Gambling Act 2005 where no representations have been made.

To cancel licensed premises gaming machine permits.

To grant a temporary use notice under the Gambling Act 2005 where no representations have been made.

In consultation with the Chair of the Licensing Committee to determine film classification restrictions where there has been no classification by the British Board of Film Classification; save that, where

the Director of Communities and the Environment considers it appropriate in view of the nature of the particular film, the matter shall be referred to the Committee.

To act on behalf of the Licensing Authority as Responsible Authority when required under the Licensing Act 2003.

To suspend licences and club premises certificates for non-payment of annual fees in accordance with the Licensing Act 2003.

To designate authorised persons as defined in Section 13(2)(a) of the Licensing Act 2003.

To designate authorised persons as defined in Section 304(2) of the Gambling Act 2005.

### **DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE DIRECTOR FOR COMMUNITIES AND THE ENVIRONMENT IN WRITING**

Under the cascade principle (above) the Director for Communities and Environment may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

### **DELEGATIONS TO THE DIRECTOR OF CORPORATE SERVICES**

Authorised to exercise the General Delegations from Council, Committees and Cabinet set out above in relation to the Chief Executive.

To approve the terms and conditions for the disposal or acquisition of freehold land, and the granting or taking of a lease of property, where the consideration or premium or annual rent is at market value and does not exceed £150,000 subject to Ward Councillors being consulted about the principle of the sale/acquisition or, if the property has not previously been leased, the principle of leasing.

To approve the terms and conditions of any other lettings, sub-lettings, concessions or licences to occupy any Council land or premises, where the rent / fee is at market value.

To grant peppercorn leases of land for potential new allotment sites (provided that such land would not be capable of achieving a market rent exceeding £6000 per annum for alternative use) subject to the approval of the Director of the relevant managing Service.

To approve the terms of rent or service charge reviews, licences to assign, deeds of variation and surrenders.

To appropriate land and properties between purposes.

To terminate or forfeit leases, sub-leases and licences.

To approve the payment of compensation due under the Landlord and Tenant Act 1954.

To grant and accept wayleaves and easements and to approve the consideration payable to or by the Council.

To approve the disposal of council houses and flats and subsequent assignments under the statutory Right to Buy provisions.

To institute, defend, settle or compromise or participate in any legal proceedings in any case where such action is necessary to give effect to a decision of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

Where any contract or document is necessary to any legal procedure or proceedings on behalf of the Council it will be signed by the Director of Corporate Services or other Officer authorised by him/her unless any enactment otherwise authorises or requires differently, or the Council has given requisite authority to some other person.

To arrange insurance cover for the Council, including the taking out and renewal of policies.

To undertake borrowing and investment decisions and related/supporting operational activity in accordance with the Council's approved Treasury Management Framework.

To sign any documentation on behalf of the Council in accordance with any approved role as "accountable body".

To update the Council's financial systems and records as necessary to bring into effect a decision of the Council or Cabinet.

To exercise the Council's statutory functions and responsibilities in respect of Council Tax, National Non-Domestic Rates, and Housing Benefit and Council Tax Support and to support the Joint Committee with Preston Council.

To authorise Officers to represent the Council in the Magistrates' Court in recovery and enforcement proceedings for Council Tax and National Non-Domestic Rates (NNDR).

To grant relevant reliefs, discounts and exemptions and support awards associated with Council Tax, National Non-Domestic Rates, and Housing Benefit and Council Tax Support (made available either through locally determined or national policies).

To authorise the commencement of civil proceedings for the recovery of sums owed to the Council.

To sign certificates under Regulation 53(5) of the Council Tax (Administration and Enforcement) Regulations 1992 and Regulation 21(5) of the Non-Domestic Rating (Collection and Enforcement (Local Lists) Regulations 1989.

To approve the naming of streets and numbering of properties.

To authorise Officers to appear on behalf of the Council in Courts inquiries and Tribunals, as appropriate.

To certify resolutions and documents as being true copies.

To determine whether or not confidential or exempt Cabinet reports, minutes or background papers are required to continue to be treated as confidential or exempt.

To sign official certificates of search in the register of local land charges and set the fee for a local search and related inquiries in respect of land.

To approve expenditure from the Councillors' conferences budget in consultation with the relevant Cabinet member.

To approve duties for inclusion in the list of Approved Duties for the purposes of the Councillors' Allowances Scheme.

To make orders under the Town Police Clauses Act 1847 where there are no objections to the proposed closure from either the highway authority or the police.

To determine requests for review under the Freedom of Information Act 2000.

To determine listing and compensation reviews in respect of assets of community value under Part 5 Chapter 3 of the Localism Act 2011.

To be the Proper Officer as required by any legislation save where another Officer has been so designated.

To authorise Officers of the Council to appear in any court or tribunal as appropriate.

To institute, defend and be responsible for the conduct of any legal proceedings in any civil or criminal court or tribunal, on behalf of the Council, and to make appropriate arrangements for such matters to be dealt with by the Council's Legal Service.

To instruct Counsel or external solicitors to advise and/or represent the Council, through the Council's Legal Service.

To settle or compromise any claim against the Council or legal proceedings to which the Council is a party, in consultation with the relevant Director.

To take all steps incidental to completing or obtaining the confirmation of any Order or other formal proceedings made by the Council.

To determine nominations for inclusion in the Council's list of assets of community value, and to determine requests from an asset owner for compensation under Part 5 of the Localism Act 2011.

In accordance with relevant legislation and any charging policy set by Council or Cabinet to set fees and charges for services and activities.

#### **DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE DIRECTOR OF CORPORATE SERVICES IN WRITING**

Under the cascade principle (above) the Director of Corporate Services may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

#### **DELEGATIONS TO THE DIRECTOR FOR ECONOMIC GROWTH AND REGENERATION**

To determine applications under the Building Regulations, and to serve notices and issue certificates under the Building Regulations 2000 (as amended).

To exercise the Council's powers under Sections 76, 77, 78, 79 and 81 of the Building Act 1984.

To approve Home Loss and Disturbance payments.

To be the Proper Officer for the purposes of Section 93(1)(a) and to authorise Officers to sign documents in accordance with Section 93(1)(b) of the Building Act 1984.

To designate authorised Officers for the purposes of Section 95 of the Building Act 1984.

The discharge of any function relating to the control of pollution and the management of air quality.

In consultation with the relevant Cabinet portfolio holder, to approve grants and other financial assistance to businesses and community enterprises, in accordance with the eligibility criteria and other terms and conditions applicable to the relevant approved grant aid schemes.

In accordance with relevant legislation and any charging policy set by Cabinet, to set fees and charges for services and activities.

In consultation with the Chief Executive, to instruct Counsel to advise and/or represent the Council.

To designate authorised Officers for the purposes of Sections 196A, 196B, 214B, 214C, 219, 324 and 325 of the Town and Country Planning Act 1990 and Sections 88 and 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990, who may then act on behalf of the Council under the relevant legislation in accordance with their designation as authorised Officer.

To set fees and charges for planning applications and any other services provided under the Terms of Reference of the Committee.

To determine applications under the provisions of Part III and VIII of the Town and Country Planning Act 1990 and Part I of the Planning (Listed Buildings and Conservation Areas) Act 1990, having regard to the approved Development Plan and any relevant approved statement of policy, including proposals affecting Listed Buildings or in Conservation Areas EXCEPT for the following categories of development:

- (a) Applications in the major category as defined by the Ministry of Housing, Communities and Local Government, which are recommended for approval and are the subject of any objections;
- (b) Applications recommended for approval which are departures from the Development Plan;
- (c) Applications made by the City Council or major applications made by the County Council;
- (d) Applications by Councillors or Council Officers and other parties where considerations of probity indicate that a Committee decision is required;
- (e) Any application which the Chief Officer (Regeneration and Planning) considers should be determined by the Committee; and
- (f) Any application which a Councillor asks to be referred to the Committee. This request must be made to the Case Officer within twenty-one days of the application appearing on the Weekly List of Applications; it must be submitted on the requisite form (which can be emailed); and the request cannot be made on a resubmitted application (an application submitted within twelve months of a refusal or withdrawal of an application with the same or similar description, unless the initial application was referred to Committee within its 21 day period before it was withdrawn).

Where a Ward Councillor submits a request, for an application to be referred to the Committee and where the Ward Councillor is also a member of the Planning Regulatory Committee, that Councillor would be expected to register to speak at the Planning Regulatory Committee meeting. In those circumstances, the Ward Councillor could either choose to send a substitute member to take their place on the Committee for the duration of the Committee meeting; or they could alternatively choose to register to speak as a Ward Councillor on that single item, in the knowledge that (as a speaker) they couldn't participate in debate or voting on that particular item. The Ward Councillor would however, be permitted

to return to the Committee benches to be able to participate in debate and vote on other items on the Committee agenda.

To secure compliance with associated conditions or legal agreements in respect of any planning permission granted, to vary such conditions or agreements and to discharge any requirements of such agreements.

To respond to consultations under the provisions of Sections 42 and 43 of the Planning Act 2008 with the exception of responding formally to the Infrastructure Planning Commission or its successors in title under Sections 55 and 60 with the Council's view on Statements of Community Involvement and Local Impact Reports.

To decline to determine applications for planning permission pursuant to Section 70A of the Town and Country Planning Act 1990.

To determine requests for amendments to submitted or determined planning applications or other development related consents.

To advertise and consult on advertising of planning and other like applications.

In conjunction with the Chief Executive to contest appeals regarding matters within the Terms of Reference of the Planning Regulatory Committee.

To serve notices for the preservation/repair of Listed Buildings or buildings/structures worthy of listing under the provisions of Sections 3, 48 and 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

To serve, pursuant to planning legislation, including the Town and Planning Act 1990, Planning Contravention Notices, Breach of Condition Notices, Building Preservation Notices, Enforcement Notices, Stop Notices, Demolition Notices, Completion Notices, Repair Notices or any other Notice and to take any other related action.

To investigate and enforce breaches of planning control, planning condition or planning legalisation.

To make and enforce Tree Preservation Orders and related provisions.

To determine applications for Certificates of Lawful Use or Lawful Development under the provisions of Section 191- 94 of the Town and Country Planning Act 1990.

To issue a screening opinion or a scoping opinion under the Provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

To waive the charge for the making of Revocation and Modification Orders in appropriate cases.

To serve statutory notices in respect of any highway matter within the terms of reference of the Planning Regulatory Committee.

To make observations on development and development plans proposed by neighbouring authorities.

To exercise all planning and development control functions including entering into planning agreements such as agreement under section 106 Town and Country Planning Act 1990.

**DELEGATIONS TO ANY OFFICERS DESIGNATED BY THE DIRECTOR FOR ECONOMIC GROWTH AND REGENERATION IN WRITING**

Under the cascade principle (above) the Director for Economic Growth and Regeneration may authorise other suitably qualified and experienced Officers to undertake any of the functions set out above.

**DELEGATIONS TO THE CHIEF FINANCE OFFICER AND TO THE DEPUTY CHIEF FINANCE OFFICER(S)**

**Executive Functions**

To determine the Council's tax bases and Collection Fund balances in respect of local taxation, together with related matters, in accordance with the Local Government Act 1992, the Local Government Act 2003 and other associated legislation.

To sign any documentation required to be signed by the Council's Chief Finance Officer.

To determine the Council's banking arrangements.

**Non-Executive Functions**

To be responsible for the proper management of the Council's financial affairs and the accounting arrangements of the Council, including (but not limited to) the following:

- All Officer decisions on borrowing, investment or financing in accordance with the approved Treasury Policy Statement and Investment Strategy.
- The investment of the Council's funds in accordance with such policy as the Council may from time to time approve and with a view to achieving such enhanced returns as is consistent with security and liquidity.
- To adjust, where necessary, the authorised and operational limits agreed each year for external debt, and to effect movement between the separately agreed figures for borrowing and long-term liabilities. Any such changes to be reported to the Council at its next meeting following the change.
- Management of the Collection Fund, General and other funds and accounts and the disbursement of monies therefrom.
- Raising of finance including leasing of vehicles, plant and equipment where the acquisition of the item concerned has all necessary approvals.
- Administration and recovery of Housing Benefits, Council Tax Benefits, Business Rates (NNDR) and to write off sums outstanding as irrecoverable.
- The grant of rate relief to charities within principles laid down by the Council.
- To write off all types of debtor accounts up to the level stated in financial regulations.
- To make mortgage advances to applicants fulfilling conditions set by the Council.
- Approve any individual loan or loan scheme.

- Make applications for funding, receive grants and act as accountable Officer.
- Act in receivership of the property of the mentally ill.

To authorise Officers to initiate and conduct legal proceedings in the Magistrates and County Courts on behalf of the Council in connection with the Council's finance and benefit functions.

**The Chief Finance Officer (Section 151) will nominate a deputy in writing.**

#### **DELEGATIONS TO THE MONITORING OFFICER**

- (a) **Advise whether Cabinet decisions are within the Budget and Policy Framework** - The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.
- (b) **Provide advice** – The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors.
- (c) **Ensure lawfulness and fairness of decision making** – After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to the Cabinet in relation to an executive function or Full Council in respect of a non-executive function if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (d) **Maintain the Constitution** – The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public and shall keep it up to date making minor amendments or implementing amendments decided by others.
- (e) **Be the Proper Officer for access to information** – The Monitoring Officer will ensure that decisions, together with the reasons for those decisions, and relevant Officer reports and background papers, are made publicly available as soon as possible.
- (f) To institute, defend, or participate in and be responsible for the conduct of any legal proceedings in any civil or criminal court or tribunal, on behalf of the Council, and to make appropriate arrangements for such matters to be dealt with by the Council's Legal Service.
- (g) To instruct Counsel or external solicitors to advise and/or represent the Council, through the Council's Legal Service.
- (h) To settle or compromise any claim against the Council or legal proceedings to which the Council is a party, in consultation with the relevant Director.
- (i) The Common Seal of the Council will be kept in a safe place within the custody of the Monitoring Officer. A decision of the Council, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by a Director, Chief Finance Officer or Monitoring Officer.

#### **Non-Executive Functions Delegated by the Personnel Committee**



In accordance with the Model Disciplinary Procedure contained in the JNC Handbook for Chief Executives, Investigation and Disciplinary Committee meetings shall be convened by the Monitoring Officer who will, filter out and deal with allegations which are clearly unfounded, trivial or can best be dealt with under some other procedure relating to the Chief Executive and the Chief Finance Officer (in consultation with the Chair of Personnel Committee).

#### **Non-Executive functions delegated by the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

**Conduct investigations** – To determine, in accordance with the Standards Committee's arrangements under the Localism Act 2011, whether an allegation of breach of the Councillors' Code of Conduct should be investigated, whether there should be local resolution or no action taken.

The Monitoring Officer will conduct investigations and may appoint an investigating Officer as appropriate.

Make arrangements for any hearings as appropriate.

To authorise the granting of dispensations pursuant to Section 33 of the Localism Act 2011.

**The Monitoring Officer will nominate a deputy in writing in accordance with Section 5(7) of the Local Government and Housing Act 1989.**

#### **DELEGATIONS TO THE DEMOCRATIC SERVICES MANAGER**

##### **Non-Executive functions delegated by the Licensing Committee**

To empanel ad hoc Sub-Committees from the pool of ten Licensing Committee members.

#### **DELEGATIONS TO THE LICENSING MANAGER**

##### **Non-Executive functions delegated by Licensing Committee**

To designate authorised Officers for the purposes of the Local Government (Miscellaneous Provisions) Act 1976, who may then act on behalf of the Council under the Act in accordance with their designation as authorised Officer.

To designate authorised Officers for the purposes of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, who may then act on behalf of the Council under the Act in accordance with their designation as authorised Officer.

To allocate permits for street collections unless there are more applications than permits available.

To suspend or revoke a driver's licence under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, including authority to suspend a licence with immediate effect in the interests of public safety.

To suspend or revoke an operator's licence under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976.

To suspend or revoke a hackney carriage or private hire vehicle licence under Section 60 or Section 68 of the Local Government (Miscellaneous Provisions) Act 1976.

To grant and issue any licence, registration or other permission under any legislation within the terms of reference of the Licensing Committee, unless there are any adverse representations or other reasons why the Officer considers it appropriate to refer the matter to the Committee. This does not include authority to refuse a licence, save that the Director of Communities and the Environment and the Licensing Manager are authorised to refuse new applications for hackney carriage or private hire driver licences, where satisfied that the applicant is not a fit and proper person to hold a licence.

To approve any matters within the conditions of licences, registrations or other permissions under any legislation within the Terms of Reference of the Licensing Committee, which require the approval or consent of the Council.

To designate authorised persons as defined in Section 13(2)(a) of the Licensing Act 2003.

To designate authorised persons as defined in Section 304(2) of the Gambling Act 2005.

To exercise any other functions that may be delegated by the Director for Communities and the Environment or the Licensing Committee from time to time.

### **DELEGATIONS TO THE SENIOR PROPERTY OFFICER**

#### **Executive Functions**

To approve the terms and conditions for the disposal or acquisition of freehold land, and the granting or taking of a lease of property, where the consideration or premium or annual rent is at market value and does not exceed £50,000 subject to Ward Councillors being satisfied with the principle of the sale/acquisition or, if the property has not previously been leased, the principle of leasing.

To approve the terms and conditions of any other lettings, sub-lettings, concessions or licences to occupy any Council land or premises, where the rent / fee is at market value.

To grant peppercorn leases of land for potential new allotment sites (provided that such land would not be capable of achieving a market rent exceeding £6,000 per annum for alternative use) subject to the approval of the Director of the relevant managing Service.

To approve the terms of rent or service charge reviews, licences to assign, deeds of variation and surrenders.

To terminate or forfeit leases, sub-leases and licences.

To serve or to authorise the service of notices under the Landlord and Tenant Act 1954.

To approve the payment of compensation due under the Landlord and Tenant Act 1954.

To grant and accept wayleaves and easements and to approve the consideration payable to or by the Council.

To approve the disposal of council houses and flats and subsequent assignments under the statutory Right to Buy provisions.

### **DELEGATIONS TO ALL DIRECTORS AND HEADS OF SERVICES IN RESPECT OF OFFICERS WITHIN THEIR SERVICE**

#### **Non-Executive functions**

To extend the term of any fixed term or temporary contract.

To change the designation of a post.

To recruit to established permanent or temporary posts (below JNC Chief Officer level), and determine commencing salary and subsequent granting or withholding of incremental progression.

To determine applications and approve arrangements in accordance with the provisions of the Council's Attendance Management Policies and Family Leave Scheme, Parental Leave Scheme and Flexible Working Scheme.

To determine applications for car loans.

To determine ex gratia payments.

To terminate employment in accordance with Council policy, and on grounds of permanent ill health.

To determine action in sickness absence cases lasting six months or more.

To take disciplinary action in accordance with Council policy (except JNC Chief Officers) and deal with grievances, capability or other staffing issues.

To authorise attendance of staff at appropriate courses, and the granting of financial assistance in accordance with the National Scheme of Conditions of Service.

The award of a maximum of two merit increments for examination success and in other appropriate cases provided that the award is within the approved establishment grade of the post-holder.

#### **DELEGATIONS TO ALL LINE MANAGERS IN RESPECT OF OFFICERS THEY LINE MANAGE**

To approve non-contentious terminations of employment (employee resignations or standard retirements), not including ill-health retirements or early access to pension as a result of redundancy within Council policy.

To manage Officers and take action as required by, and in accordance with, the terms of Council employment policies and procedures, including determining commencing salary for new appointees.