



GA.20 12/13

20 September 2012

Governance and Audit
Committee

I

Subject: Review of the Constitution

Report by:

Monitoring Officer

Contact Officer:

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Officer

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Purpose / Summary:

The purpose of the report is to recommend to
Council the proposed amendments to the
Constitution.

RECOMMENDATION(S):

That the Governance and Audit Committee recommend Council to approve amendments to the Council's Constitution as detailed in Appendix 1 and that these changes come into immediate effect.

IMPLICATIONS

Legal: The Council is required by law to prepare and keep up to date the Constitution.

Financial: There are only very limited financial implications as a result of making amendments to the constitution. These relate to the resources needed to make changes to electronic records and to the limited printing costs of producing amended pages for paper copies of the Constitution.

Staffing: None arising from this report but the Constitution sets out the manner in which staffing matters should be dealt with.

Equality and Diversity including Human Rights : None arising from this report.

Risk Assessment: Failure to amend the constitution to reflect changes could lead to a risk of legal challenge and reputational risk for the Council.

Climate Related Risks and Opportunities : None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:

Accessed through WLDC website "[Meetings, agendas, minutes and reports](#)"

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

Yes

No

Key Decision:

Yes

No

1 Introduction

- 1.1 The Council is required by law to prepare and keep up to date a Constitution which explains how the Council operates, how decisions are made and the procedures which are to be followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 In line with my duty to annually review the Constitution the following additions/amendments are proposed to come into effect immediately.
- 1.3 At the Council meeting on 21 November 2011 alterations to the Constitution were approved following changes to the Council's management structure at Director level. At that time it was noted that further alterations would be required to reflect the future changes to the Service Manager structure. These changes have been managed in the interim by the use of Directors' delegations.
- 1.4 An Annual Review of the Constitution was approved by Council at its Annual Meeting on 14 May. It was noted at that time that further amendments would be required following the implementation of Organising for Delivery.
- 1.5 This report sets out the Scheme of Delegations following the implementation of Organising for Delivery. The revised Part IV of the Constitution is attached to this report at Appendix A, and once approved, a hard copy Constitution containing all recent changes will be provided to Members.
- 1.6 The recent changes to the Standards regime including the revised Code of Conduct and arrangements for the handling of complaints, as reported to and approved by Council in July and September 2012 have necessitated further Constitutional changes and these will be incorporated in due course.

Officers

Introduction

1. The following delegations to officers are made under Section 101 of the Local Government Act 1972 and all other powers enabling such delegations. The delegations are made with the intent that they shall lead to a streamlining and simplification of the processes of the Council and, accordingly, should be interpreted widely rather than narrowly.
2. The Chief Executive, and Directors are authorised to discharge the powers and duties necessary to carry out the Council's functions within the broad functional description set out in the following sections, together with the specific delegations which are specified, and should be taken to include powers and duties within those descriptions within all present and future legislation, and all powers incidental to that legislation, including the application of the incidental powers and duties under Section 111 of the Local Government Act 1972.
3. The delegations shall operate in addition to any previous delegations. Any reference to a specific section or statute shall be deemed to incorporate reference to any enactment amending, re-enacting or replacing that statute.

Overall Limitations

4. The following are not delegated to Officers:
 - (a) Any matter reserved by law to the Council, a committee or sub-committee.
 - (b) Any matter which is specifically excluded from delegation by resolution of the Council, a committee or sub-committee.
5. Officers may only exercise delegated powers in accordance with -
 - (a) Plans, schemes or strategies approved by, or on behalf of, the Council.
 - (b) Procedure Rules of the Council.
 - (c) Any statutory restrictions, guidance or statutory code of practice.
 - (d) The revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the Council's Financial Procedure Rules and Contract Procedure Rules.

- (e) The Council's Generic Equalities and other policies, procedures, standards and the Local and National Conditions of Service.
- 6. Where any matter contained within this Scheme of Delegation involves professional or technical considerations within the sphere of competence of another officer, the officer to whom authority has been delegated shall consult that officer before authorising action.
- 7. Where a delegated power is exercisable following consultation with the Chairman of a Committee, consultation shall take place with the Vice-Chairman in the absence of the Chairman.
- 8. Where an action is delegated to an officer via the Council, then such delegation shall be undertaken without undue delay.

Heads of Service

- 9. The Council has nine Heads of Service who are:

- Assistant Chief Executive
- People and Organisational Development
- Finance
- Central Services
- Operational Services
- Development and Neighbourhoods
- Localism
- Public Protection
- Strategic Growth

Sub-Delegation

- 10. Officers may further delegate any function which has been delegated to them to another officer or officers providing that there is no statutory restriction on doing so.
- 11. Every sub-delegation shall be in writing.
- 12. In exercising any delegated function, officers shall be responsible for undertaking any appropriate consultation with the Council's Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer before taking any decision.
- 13. Instead of exercising his/her delegated power in any matter, an officer may refer the matter to the appropriate committee/sub-committee/board etc.
- 14. Any power delegated to a Director in the absence of that Director may be exercised by the Chief Executive.
- 15. Any power delegated to a Head of Service in the absence of that Head of Service may be exercised by the relevant Director.

Politically Sensitive Issues

16. Without derogating from the discharge of functions under these arrangements -
- (a) Maintain close liaison with the Committee Chairman in whose scope the Director's functions exist particularly in respect of controversial and sensitive issues.
 - (b) Each Director shall also maintain close liaison with members representing the political groups in relation to any matter which in the opinion of the Director may be regarded as sensitive or contentious by any such group. The Director shall also notify the Committee Chairman and/or Leader of such items and keep them informed of progress.
 - (c) Where a member has made known to a director his/her legitimate interest in a matter or where a matter relates to or affects the member's ward the Director shall consult with that member and shall keep the member informed of significant developments relating to that matter and similarly brief the relevant committee chairman.
17. The existence of a delegation to a Director or Head of Service shall not require that officer to take a decision on that issue. Directors and Heads of Service need to be aware of particularly controversial issues of concern to the Committees of the Council. In such circumstances he/she may refer the matter for guidance or decision by the Committee or the Council if he/she considers it is appropriate to do so at the earliest opportunity. In so doing the Director or Head of Service shall advise the members concerned of the extent of his/her delegated powers relating to the matter.

Chief Executive and Directors

To manage the service for which he/she is responsible including:

- the day to day administration of personnel matters in accordance with Council policy excluding decisions on discretionary pension issues;
- the exercise of those powers specifically mentioned in the Local Conditions of Service;
- the procurement or provision of services required to discharge the Council's functions within his/her area of responsibility;
- the management, furnishing and equipping of premises for which he/she is responsible;
- the incurring of any expenditure contained in approved estimates in his/her area of responsibility;
- the taking of all decisions within the purview of his/her service; and
- the taking of any action required to implement a decision of the Council or any of its committees, sub-committees etc.

Chief Executive

1. To exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff and the terms and conditions on which they are employed)
2. To determine conclusively any question which may arise as to the interpretation and application of the "Responsibility for Functions".
3. In accordance with the provisions of the Local Government (Committees and Political Groups) Regulations 1990, to agree the overall allocation of seats to Groups resulting from the application of rounding.
(Limits on delegations: Following consultation with Group Leaders).
4. To determine any matter within the referred or delegated powers and duties of a committee/sub-committee/board/ working group which is so urgent that a decision must be made before the next meeting of that committee/sub-committee/board/working group is due to be held.
(Limits on delegations: Before making any decision pursuant to this delegated power, the Chief Executive shall consult with and take cognisance of the views of the Chairman of the relevant committee/ sub-committee/ board/ working group (or, in his/ her absence, the Vice-Chairman of that committee/ sub-committee/ board/ working group). Any decision taken by the Chief Executive under this delegated power shall be reported to Members within five working days of the decision being taken.
5. To determine the closing time of Council offices and depots on the last working day before Christmas Day.
(Limits on delegations: Following consultation with the Chairman of the Policy and Resources Committee).
6. To appoint substitute members to serve on committees and sub-committees in accordance with nominations put forward by the Political Groups on the Council.
7. For those organisations where representation is normally determined at Annual Council, to make appointments where vacancies exist following the annual meeting of Council.
(Limits on delegations: Following consultation with the Chairman of the Council).
8. To take all such action and proceedings and to sign all such directions, notices applications or other process in relation to Sections 77, 78 and 79 of the Criminal

Justice and Public Order Act 1994 as deemed to be necessary and appropriate on behalf of the Council.

(Limits on delegations: In consultation with the Chairman of the Prosperous Communities Committee).

9. To be Head of Paid Service under Section 4 of the Local Government and Housing Act 1989.
10. In the event of extreme inclement weather; or insufficient business to warrant calling a meeting or other unforeseen circumstance to cancel or postpone a meeting of the Council, a committee, sub-committee etc.
11. To establish and maintain an accountability framework to implement devolved management arrangements.
12. To determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers (This is set out in Part VII of the Constitution).
13. To add entries to the Capital Programme provided that they are fully externally funded in consultation with the Leader of the Council and the Chief Finance Officer.
14. To be the Returning Officer for local Government elections.
15. To be the Electoral Registration Officer.
16. In the absence of the Chief Executive the delegated powers in 1-13 above may be exercised by the Deputy Chief Executive.

Assistant Chief Executive

1. To approve new street names and numbering in respect of new development submitted by:
 - (a) Parish Councils
 - (b) Private developers, following approval by the local parish council concerned.

Head of Finance Services (Chief Finance Officer)

1. To exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.
2. To report on apparent unlawful expenditure, unlawful action causing loss or deficiency, or unlawful items of account in accordance with section 114 of the Local Government Finance Act 1988.
3. To negotiate with the Council's external auditor on the level and type of audit resources required to carry out the statutory and management audit requirements of the Council.
4. To write off debt up to £1,500.
5. To operate the Council's bank accounts including confirmation of alterations to authorised signatory lists of agents.
6. To sign all necessary claim forms and certificates in respect of any grants or other funds payable to the Council under any statutory or other powers.
7. To maintain adequate insurance cover on behalf of the Council and to negotiate the settlement of any claims arising either with the Council's insurers or their appointed agents (**Limits on delegation:** On the advice of the Chief Executive/ Directors of the risks involved).
8. To approve claims on the Council's internal insurance fund.
9. To accept interest only payments in respect of outstanding mortgage loans where not to do so would cause undue hardship; such arrangements to run for a period of one year at a time, until the property is sold or until the mortgagor is no longer in receipt of income support benefit, whichever is the sooner.
10. To exercise the Council's statutory borrowing powers to finance capital and revenue expenditure pending the receipt of income and the lawful investment of surplus cash and external funds

Head of People and Organisational Development

1. To make and account for appropriate deductions from pay and to make appropriate employer contributions in respect of income tax, national insurance and the superannuation fund.
2. To increase long service awards, retirement gifts and death in service awards in line with the current retail price index from 1 April each year.

Head of Central Services

1. To reduce sundry debts to a nominal figure for cases subject to bankruptcy, liquidation or administration order proceedings.
2. To administer all matters relating to Council Tax and Benefits.
3. To act on behalf of the Council on matters relating to -
 - (a) making proposals for alterations to the Valuation List.
 - (b) objections to proposals in rateable value/banding.
 - (c) agreement to alterations to proposals in rateable value/banding.
 - (d) appeals to local Valuation Tribunals.

(Limits on delegations: Following consultation with the Chief Executive).
4. To agree apportionment of rateable values in accordance with section 44a of the Local Government Finance Act 1988.
5. To write down Non-Domestic Rate and Council Tax outstanding to a nominal value of £11 in respect of each arrears case which is subject to formal bankruptcy or liquidation claims.
6. To appear on behalf of the Council at a Valuation Tribunal or Benefits Appeal Tribunal.
7. To determine applications for mandatory rate relief in accordance with Section 43 and Section 45 of the Local Government Finance Act 1988 (including the additional granting of 20% discretionary relief) Responsibility for Functions
8. To deal with renewals of applications under 7 above unless there is a change of circumstances.
9. To impose penalties in accordance with section 14(2) of the Local Government Finance Act 1992 on persons failing to supply information to or notify the billing authority regarding Council Tax liability.
10. To make the initial assessment and decision on claims for discretionary housing payments.
11. In accordance with the provisions of sections 101 and 223 of the Local Government Finance Act 1972, to prosecute and defend on behalf of the Council, or to appear on the Council's behalf in proceedings before a Magistrates Court relating to all and/or any of the matters referred to in the sub-paragraphs below -

- (a) proceedings relating to the obtaining of Liability Orders in respect of unpaid Council Taxes and National Non-Domestic rates;
 - (b) proceedings relating to the collection and recovery of penalties;
 - (c) committal proceeding relating to unpaid Council Taxes and National Non Domestic rates;
 - (d) proceedings relating to the recovery of monies due to the Council either directly or under agency arrangements.
12. To determine applications for national non-domestic rate relief on hardship grounds or in accordance with Section 49 of the Local Government Finance Act 1988 and the Council's approved criteria.
13. To determine applications for national non-domestic rate discretionary relief in accordance with Section 47 of the Local Government Finance Act 1988 and where the application accords with the Council's approved policy framework.
14. To be the Deputy Monitoring Officer

Director of Communities and Localism

1. To nominate the Council's Data Protection Officer.
2. To take all such actions and decisions in the proceedings of the Lincolnshire Shared Legal Services Partnership.
3. To monitor authorisations to conduct surveillance under the Regulation of Investigatory Powers Act 2000.

Head of Public Protection

1. To decide, approve, determine, consider representations and applications, vary, issue, relax, refuse, revoke, withdraw licences, licence conditions, registrations, certificates, permits, awards and authorisations in relation to the following legislation listed in section 3.
2. To appoint, authorise, nominate, named persons to
 - (a) Administer, exercise powers, give direction, exercise the powers of entry, agree notices, act, take enforcement action including prosecutions, serving notice, carrying out work in default, including cost recovery
 - (b) Act as inspectors
 - (c) Act as a competent person
 - (d) Act in a statutory role
 - (e) Administer the provisions
 - (f) Determine confidential matters

Under the provisions in the acts, regulations, and any associated orders and regulations listed in paragraph 3 below.

3. The powers in paragraph 2 above apply to the following legislation:

Town Police Clauses Act 1847 & 1889 incorporated by the Public Health Act 1875.

The Dogs Act 1906 as amended by the Local Government Act 1988,
Police, Factories, etc (Miscellaneous Provisions) Act 1916

Performing Animals Act 1925

Public Health Act 1936

House to House Collections Act 1939

National Assistance Act 1948 as amended by the National Assistance
(Amendment) Act 1951.

Prevention of Damage by Pests Act 1949

Pet Animals Act 1951
Rag, Flock and other Filling Materials Act 1951
Hypnotism Act 1952
Caravan Sites and Control of Development Act 1960
Public Health Act 1961
Animal Boarding Establishments Act 1963
Scrap Metal Dealers Act 1964
Riding Establishments Act 1964 and 1970
Slaughter of Poultry Act 1967
The Agriculture (Miscellaneous Provisions) Act 1968
European Communities Act 1972
Local Govt Act 1972 Section 101 Small Society Lotteries
Breeding of Dogs Act 1973
Control of Pollution Act 1974
Health and Safety at Work etc Act 1974
Dangerous Wild Animals Act 1976
Land Drainage Act 1976
Local Government (Miscellaneous Provisions) Act 1976 and the Town Police
Clauses Act 1847
Refuse Disposal (Amenity) Act 1978
Zoo Licensing Act, 1981
Animal Health Act 1981
Local Government (Miscellaneous Provisions) Act 1982
Control of Asbestos Work Regulations and the Asbestos (Licensing) Regulations
1983.
Building Act 1984
Public Health (Control of Diseases) Act 1984
Food and Environmental Protection Act 1985
Natural Mineral Waters Regulations 1985
Control of Pesticides Regulations 1986
Public Health (Infectious Diseases) Regulations 1988
Health & Safety (Enforcing Authority) Regulations 1989
Water Act 1989
Food Safety Act 1990
Environmental Protection Act 1990.
Water Industry Act 1991
Dangerous Dogs Act 1991
Private Water Supplies Regulations 1991
Land Drainage Act 1991
Controlled Waste Regulations 1992
Clean Air Act 1993
Noise and Statutory Nuisance Act 1993
Sunday Trading Act 1994
Criminal Justice and Public Order Act 1994
Environment Act 1995
Dogs Fouling of Land Act 1996

Noise Act 1996
Crime and Disorder Act 1998
Vehicle (Crime) Act 2001
Police Reform Act 2002
Motor Salvage Operator regulations 2002
Licensing Act 2003
Food Safety Act 1990 (Amendment) Regulations 2004
General Food Regulations 2004
Official Feed and Food Controls (England) (Regulations 2005)
Gambling Act 2005
Clean Neighbourhoods and Environment Act 2005
Food Hygiene (England) Regulations 2006
Animal Welfare Act 2006
Health Act 2006

Head of Operational Services

1. To set charges for the collection and disposal of commercial waste,
2. To appoint, authorise, nominate, named persons to
 - (a) Administer, exercise powers, give direction, exercise the powers of entry, agree notices, act, take enforcement action including prosecutions, serving notice, carrying out work in default, including cost recovery under the following legislation:
 - Clean Neighbourhood and Environment Act 2009 (Section 47A)
 - Environment Protection act 1990 (Section 33 and 46)
3. To arrange for the renewal, on appropriate terms, of leases and licences.

Head of Localism

1. To deal with and adjudicate on complaints about high hedges under the Anti-Social Behaviour Act 2003.

Director of Regeneration and Planning

Head of Development and Neighbourhoods and Head of Strategic Growth

1. To determine the following:

- Applications for planning permission
- Applications for Listed Building and Conservation Area Consent
- Applications made under the Hazardous Substances regulations
- Applications for consent to display advertisements
- All prior approval applications

The above powers cannot be used if the following circumstances apply:

- (a) In the case of an application it is intended to determine in conflict with a representation received from a parish or town council, a neighbour or other person or organisation, that application will be referred to the Planning Committee for determination where, in the professional opinion of the Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth:
- (i) The representation relates to a “planning matter”; and
 - (ii) The representation is relevant to the application under consideration; and
 - (iii) The planning matters under consideration in the determination of the application are finely balanced.
- (b) The application has been subject to a request by a councillor, made within 28 days of the publication of the weekly list upon which the application first appeared and supported by relevant planning policies and other material planning considerations, to have it determined by the Planning Committee for one of the following reasons;
- (i) The application is of major importance or significance to the District as a whole and therefore requires the input of Councillors in its determination
 - (ii) There is, in the opinion of the Councillor making the request, a valid planning reason why the application should be determined by the Planning Committee and this is supported by planning policy.

It will be for the Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth to decide, on the basis of the planning reasons given by the councillor or planning policies referred to, whether the application should be referred to the Planning Committee for determination.

- (c) An application has been on deposit in the statutory register for a period of less than 28 days or the period allowed for consultation replies to be received has not expired, whichever is the later.
 - (d) The applicant or agent is a councillor.
 - (e) The applicant or agent is from the immediate family of a Councillor.
 - (f) The applicant or agent is an officer of the Council.
 - (g) The applicant or agent is from the immediate family of an officer of the Council.
 - (h) The Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth considers it appropriate that the application is determined by the Planning Committee.
2. To determine all other matters which are part of the development management process, including (but not exclusively):
- (a) Approve details to discharge conditions attached to planning permissions
 - (b) To enter into negotiations and reach agreements concerning obligations, agreements and undertakings – including those to do with s106 of the Town and Country Planning Act 1990 and the Community Infrastructure Levy.
 - (c) To approve the details of agreements and obligations made under the planning acts (including those made under s106 of the Town and Country Planning Act 1990).
 - (d) To approve non-material amendments to planning permissions.
 - (e) To determine those organisations and individuals who should be consulted on planning and other applications.
 - (f) To deal with planning appeals.
 - (g) To decide the need for and content of environmental statements.
 - (h) To decline to determine applications where a previous application has been dismissed at appeal and the new application is substantially the same.
5. To make Tree Preservation Orders and to confirm orders where no objection – relevant under current legislation – has been made.

6. To determine all applications to lop, top or fell protected trees.
7. To determine notices to make safe dangerous trees in private ownership and to take action to make the tree/s safe.
8. To determine all applications for the removal of hedgerows in accordance with the Hedgerow Regulations 1997.
9. To confirm any unopposed footpath orders following the expiration of the statutory consultation period.
10. To determine all applications relating to certificates of lawful use or development and related applications [NB the provisions set out in paragraph 1 points d to g with regard to officer and member applications and family relationships also apply to this category of application].
11. To make objections to the issuing of operators licences under the Transport Act 1968 and the Goods Vehicles (Operators Licences Qualifications and Fees) Regulations 1984.
12. To respond to consultations from Government (including agencies) on proposals to introduce new policies, procedures or legislation or to alter existing policies procedures or legislation.
13. To respond to consultations from neighbouring councils on applications which might have an impact on the District, unless in the opinion of the Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.
14. To respond to consultations on proposals for major infrastructure developments within or having an impact upon the District, unless in the opinion of the Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.
15. To respond to consultations on pipeline consents within the District, unless in the opinion of the Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth that impact is of wider significance or of major importance to West Lindsey, under the duty to Co-operate.
16. To respond to consultations on county matters or county developments, unless in the opinion of the Head of Service, appropriate Team Manager or senior officer within Development and Neighbourhoods or Strategic Growth that impact is of

wider significance or of major importance to West Lindsey, under the duty to Co-operate.

17. To draw up service level agreements (SLAs) with other organisations for the effective delivery of services related to regeneration which includes, but is not limited to, economic development, tourism and skills and employment.
18. To enter into partnerships that increase the benefit, services and influence available to West Lindsey District Council with other organisations related to regeneration, which includes, but is not limited to, economic development, tourism and skills and employment.
19. To initiate planning enforcement action (including all action related to the listed buildings and trees), including (but not exclusively):
 - (i) To serve enforcement notices
 - (j) To serve breach of condition notices
 - (k) To issue stop notices
 - (l) To issue temporary stop notices
 - (m) To serve planning contravention notices
 - (n) To serve s215 notices
 - (o) To authorise prosecution

Under all relevant statutes or any subordinate rules, orders or regulations.

21. To determine it is not expedient to take enforcement action in accordance with the Council's enforcement policy unless the Development Management Committee has authorised the enforcement action.
22. To arrange for the renewal, on appropriate terms, of leases and licences.
23. To appoint Consultants where necessary within the budget to ensure compliance with the Council's Capital works Programme, or to provide technical advice on work of a specialist nature.
24. To submit applications for planning permission, listed building consent and other necessary consents in respect of any works included in the approved capital or revenue programme.

Head of Service – Development and Neighbourhoods

1. To alter the approved fees and charges at the Trinity Arts Centre for a limited period, taking into account the circumstances at any given time.

Head of Service – Strategic Growth

1. To alter the approved fees and charges for Gainsborough Market stalls and pitches for a limited period, in exceptional circumstances e.g. relocation of the market or significant loss of traders, in consultation with the Chairman of the Policy and Resources Committee.
2. To amend the Code of Practice for Traders, should the need arise, in consultation with the Chairman of the Policy and Resources Committee.
 - (iii) To approve the cancellation of markets in exceptional circumstances in consultation with the Chairman of the Policy and Resources Committee.
 - (iv) To approve the dates of any extra markets in Gainsborough Market Place / Silver Street at any time of the year, in consultation with the Chairman of the Policy and Resources Committee.
3. To agree Building Society variations to mortgage of property subject to “Right to Buy” provisions.
4. To postpone the discount charge for all organisations specified by Section 156 of the Housing Act 1985 and any other financial organisation where the mortgagor account has not been conducted satisfactory
(Limits on delegation: Following consultation with the Chairman or Vice-Chairman of the Prosperous Communities Committee).
5. To determine housing applications within the term of the current homelessness legislation.
6. To approve applications to be placed on the Council’s Housing Register which fall within the criteria for acceptance.
7. To make nominations to Registered Social Landlords (RSLs) and other agencies in accordance with the Council’s approved housing allocation policies.
1. To provide professional services and make financial grants to property owners and tenants to assist in the improvement, adaptation, conversion and renovation of dwellings and houses in multiple occupation.
2. To take action in respect of; the repair, closing or demolition of dwellings failing to meet the necessary legal standard (currently set out through the Housing Health and Safety Rating System) or otherwise in a state of disrepair, the designation and treatment of clearance and renewal areas, the abatement of overcrowding and the control of houses in multiple occupation.

3. To decide on applications for home improvement grants and for home repairs assistance.
4. To serve notices for execution of repairs for privately owned dwellings, including houses in multiple occupation and, if necessary, to exercise the Council's powers to institute or secure the institution of works in a default of compliance with such notices. To promote the voluntary Landlord Accreditation Scheme and to promote other good management practices in relation to privately owned dwellings to prevent the need for enforcement or regulatory action to be required.
5. To issue licences for houses in multiple occupation, together with the imposition of conditions as appropriate, to take the necessary enforcement and regulatory powers and to revoke licences where necessary.
6. To extend time in which renovation grant work may be completed provided that the extension does not commit the Council to another financial year.
7. To exercise powers contained in Section 1, 3, 4,9,10 and 11 of the Caravan Sites and Control of Development Act 1960.
8. On the breach of any condition attached to a grant made under the Local Government and Housing Act 1989 or the Housing Grants, Construction and Regeneration Act 1996, to approve in special circumstances, the waiver of repayment of the grant monies, or where legislation allows, part thereof.
9. To approve the transfer of mortgaged property in circumstances covered by the exempt provisions of the Housing Act 1985 or as a result of family circumstances.
10. To seek the repayment of Renovation Grants (Housing Act 1985 and Local Government and Housing Act 1989) and Housing Grants (Construction and Regeneration Act 1996).
11. To make determinations under the Housing Health and Safety Rating System.
12. To grant licences to permit the use of land for moveable dwellings to take legal proceedings for non-compliance with conditions, in accordance with the provisions of section 269 of the Public Health Act 1936.
13. To undertake action, including licensing, the promoting of orders and enforcement measures as required under the Housing Act 2004, not covered by any of the above delegations.
14. To give a direction under Section 77 of the Criminal Justice and Public Order Act 1994 and to give notice of such a direction to those persons to whom the direction applies.

15. To administer the provisions of the Refuse Disposal (Amenity) Act 1978 in respect of the Regulations (as amended) relating to the removal and disposal of abandoned vehicles and the recovery of costs.
16. To administer the provisions of the Refuse Disposal (Amenity) Act 1978 in respect of the Regulations relating to anything (other than motor vehicles) abandoned without lawful authority and the recovery of costs.
17. To appoint, authorise, nominate, named persons to
 - a. Administer, exercise powers, give direction, exercise the powers of entry, agree notices, act, take enforcement action including prosecutions, serving notice, carrying out work in default, including cost recovery
 - b. Act as inspectors
 - c. Act as a competent person
 - d. Act in a statutory role
 - e. Administer the provisions
 - f. Determine confidential matters

Under the provisions in the acts, regulations, and any associated orders and regulations listed below.

The Dogs Act 1906 as amended by the Local Government Act 1988
Prevention of Damage by Pests Act 1949
Building Act 1984
Environmental Protection Act 1990
Dangerous Dogs Act 1991
Dogs Fouling of Land Act 1996
Clean Neighbourhoods and Environment Act 2005
Animal Welfare Act 2006

25. Where appropriate, to appoint a competent person to be the CDM Coordinator under the Construction (Design and Management) Regulations 2007.
26. To deal with all enquiries for the disposal of small areas of land or rights over land, subject to the following conditions being satisfied -
 - (a) the affected land is deemed to be surplus to the Council's requirements and, for sales, can be disposed of in one transaction or one series of transactions;
 - (b) there is the prospect of generating some income or some other tangible benefit to the Council such as no further management or maintenance of the land; and
 - (c) there are no potential long-term management problems or legal encumbrance associated with the sale or grant which would negate the value of (b).

27. To assign leases.
28. To agree and sign Licences and Way leaves affecting Council land.
29. To approve miscellaneous short-term lettings.
30. To negotiate terms to take a lease or licence or to acquire the freehold of land or premises where a service need has been identified and budgetary provision made.
31. To enter into Agreements relating to the adoption of sewers.
32. To terminate leases and licenses, including issuing Notices to Quit and Notices under the provisions of the Landlord and Tenant Act 1954, where possession is required by the Council for an approved purpose.
33. To submit tenders/quotations up to the value of £75,000 for work for public bodies as defined by the Local Authority (Goods and Services) Act 1970 and to any other organisations permitted by legislation.
34. To take all such action and proceedings and to sign all such directions, notices, applications or other process in relation to obtaining possession of any part of the Council's land holding from unauthorised campers, travellers and other trespassers as deemed to be necessary and appropriate on behalf of the Council.

SCHEME OF MANAGEMENT: CORPORATE DELEGATIONS

Note: delegations can only be exercised within the relevant officer's area of responsibility

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
1. Establishment (Changes must be funded from within the Head of Service's approved employee budget & not commit to additional expenditure in future years. Managers to involve HR & Finance when exercising delegation)						
1.1	Making changes to the establishment. Creating and deleting posts	✓	✓			
1.2	Making changes to job documentation (JDs and person specifications)	✓	✓	✓	✓	
1.3	Making changes to the structure and reporting lines	✓				
1.4	Implement conditions of service as provided for in the national or local conditions of service	✓				
1.5	Carry out appropriate consultation with the workforce and trade union representatives about changes in work practices, payment schemes and operational matters	✓	✓			
1.6	Deal with personal grading protection in cases of redeployment or changed circumstances	✓	✓			Subject to maximum in appendix A to report PS.3 92/93
2. Appointments						
2.1	Deciding to fill vacant posts	✓	✓	✓		
2.2	Taking decisions on the recruitment process for individual posts	✓	✓	✓		

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
2.3	Chairing appointments panels and making appointments	✓	✓	✓	✓	Posts at chief officer level, statutory officers and above are member appointments. Panels for service manager appointments must be chaired by directors.
2.4	Deciding whether to proceed with appointments in the light of references, medicals and criminal record checks	✓	✓	✓	✓	
2.5	Determining whether the probation period for a new recruit has been successfully completed	✓	✓	✓	✓	
2.6	Approving acting up and cover arrangements	✓	✓	✓		
2.7	Authorising transfers and secondments	✓	✓	✓		
2.8	Procuring/engaging agency and temporary staff	✓	✓	✓	✓	Within area of responsibility and budgetary limits.
3. Remuneration (Managers to involve HR and Finance when exercising delegation)						
3.1	Authorising a request for a post to be graded or re-graded.	✓	✓	✓		
3.2	Authorising essential car user status and entitlement to car and season ticket loans	✓	✓	✓		
3.3	Approving annual increments	✓	✓	✓	✓	
3.4	Awarding honoraria and ex-gratia payments	✓	✓	✓	✓	
3.5	Approving acting up allowances	✓	✓	✓	✓	
3.6	Approving or authorising pay supplements that					

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
	form part of a member of staff's terms of employment e.g. overtime, bonus etc.	✓	✓	✓	✓	
3.7	Authorising expenses and allowances	✓	✓	✓	✓	
4. Disciplinary, capability, sickness management and grievances						
4.1	Suspending a member of staff	✓	✓	✓		
4.2	Instructing a member of staff to leave the premises	✓	✓	✓		
4.3	Initiating disciplinary, performance, capability and managing attendance proceedings/confirming charges and taking action that may lead to warnings or dismissal or referrals	✓	✓	✓	✓	
4.4	Chairing a panel or a review meeting that may deal with any issues relating to disciplinary/capability/performance/managing attendance procedures	✓	✓	✓		
4.5	Determining complaints under the Grievance Procedure	✓	✓	✓		
4.6	Determining appeals under the grievance, disciplinary, capability, performance management and managing attendance policies	✓				
5. Attendance (Managers to involve HR and Finance when exercising delegation)						
5.1	Agreeing changes to an individual's contractual hours	✓	✓	✓	✓	
5.2	Agreeing hours of attendance	✓	✓	✓	✓	

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
5.3	Agreeing the application of any flexible or shift working arrangements	✓	✓	✓	✓	
5.4	Agreeing home working arrangements	✓	✓	✓	✓	
5.5	Approving annual leave and flexi leave	✓	✓	✓	✓	
5.6	Approving carry over leave	✓	✓	✓	✓	
5.7	Approving special leave	✓	✓	✓	✓	
5.8	Approving training (time off and costs)	✓	✓	✓	✓	In line with budget resource
5.9	Approving time off with pay	✓	✓	✓	✓	
5.10	Approving leave without pay	✓	✓	✓	✓	
6. Leavers						
6.1	Confirming resignations	✓	✓	✓	✓	
6.2	Providing references	✓	✓	✓	✓	
6.3	Agreeing terms on which staff leave the Council e.g. compromise agreement, outstanding leave, notice to be worked etc.	✓	✓	✓		Legal Services Manager to agree the terms of any compromise agreement
6.4	Designating a member of staff as a redeployee	✓	✓	✓		
6.5	Agreeing redundancy/early retirement	✓				

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
7. Budgets and expenditure (any decision taken must be consistent with the Financial Procedure Rules and Contract Procedure Rules)						
7.1	Incurring expenditure within approved budget limits	✓	✓	✓	✓	
7.2	Authorising virements within approved service budget	✓	✓	✓	✓	
7.3	Authorising virements between approved service budgets	✓	✓			
7.4	Incurring expenditure in a 'state of emergency' or in order to ensure business continuity	✓	✓			Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Policy and Resources Committee.
7.5	Incurring expenditure in taking immediate urgent action in responding to civil emergency and severe weather	✓	✓			Financial Procedure rules, where practicable. CMT and CFO in consultation with Chairman of Policy and Resources Committee.
7.6	Authorising compensation	✓	✓			Subject to financial limits – up to £25,000; Director and CFO Over £25,000 to £100,000; CMT and CFO and consultation with Chairman of Policy and Resources Committee. Over £100,000; Policy and Resources Committee.

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
8. Payroll						
8.1	Authorising payroll submissions	✓	✓	✓	✓	Includes authority to include a new employee on the payroll
8.2	Authorising payroll corrections	✓	✓	✓	✓	
9. Income						
9.1	Determining whether income is due	✓	✓	✓	✓	
9.2	Agree changes to locally determined fees and charges in exceptional circumstances	✓				Action taken to be reported to Policy and Resources Committee
9.3	Initiating debt recovery action	✓	✓	✓		No decision required- administrative task. Decision <u>not</u> to pursue a debt needs to be a delegated decision- see below (writing off debts)
9.4	Cancelling and reversal of debts	✓	✓	✓		Cancellation of debt raised in error; administrative task providing there is documented audit trail.
9.5	Writing off debts		✓			Up to £1,500; CFO Over £1,500; Policy and Resources Committee decision
10. Purchasing and Procurement (any decision taken must be consistent with the Financial Procedure Rules and Contract Procedure						

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
Rules)						
10.1	Seeking tenders and quotations within approved limits	✓	✓	✓	✓	
10.2	Accept the most favourable tender/quotation in terms of quality, timeliness and cost providing it is within the approved budget	✓ (a)	✓ (a)	✓ (b)		(a) above whole life contract value of £75,000 (b) up to whole life contract value of £75,000
10.3	Allowing exemptions to the Contract Procedure Rules	✓				in specific circumstances as detailed in the Contract Procedure Rules
10.4	Placing and authorising orders	✓	✓	✓	✓	in accordance with authorised purchasing limits
10.5	Determining purchasing limits for officers	✓	✓	✓		
10.6	Authorising variations to contracts within approved limits	✓	✓	✓		per authorised limits
10.7	Terminating contracts	✓	✓	✓		Subject to legal advice
10.8	Maintaining an inventory of assets	✓	✓	✓	✓	
10.9	Disposal of Assets	✓	✓	✓		Subject to guidance in Financial Procedure Rules
10.10	Authorising invoices	✓	✓	✓	✓	May be delegated further within service areas to designated budget managers.
10.11	Appointing consultants	✓				

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
11. Authorisations						
11.1	Signing off reports to committee	✓	✓			In compliance with committee report sign off procedures
11.2	Signing off Government and other returns	✓	✓	✓	✓	
11.3	Signing off bids and applications for funding	✓	✓	✓		In compliance with Financial Procedure Rules after consulting CFO
11.4	Approving service and business plans	✓				
11.5	Approve response to consultative documents	✓	✓	✓		Within area of responsibility after consultation with appropriate chairman; if politically contentious (para 5, page 4/21) will be report to committee
12. Complaints						
12.1	Determining complaints	✓	✓	✓	✓	
13. Engaging Specialists						
13.1	Engaging legal advice	✓	✓	✓	✓	Subject to consultation with Legal Services Manager

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
13.2	Engaging consultants where necessary to provide technical advice or work of a specialist nature	✓	✓	✓		Within budget provision and compliance with Contract Procedure Rules
14. Land Transactions						
14.1	Acquisitions and disposals of an approved item in the MTFP at full market value. The purchase or sale of land up to £250,000 in value (including leases or easements where the annual rent multiplied by the length of the lease does not exceed that figure assuming that the rent is not increased on review)	✓	✓	Resources Directorate only		Subject to reference to Policy and Resources Committee by the Director of Resources re areas of open space or land in the nature of open space if there is significant public interest in the preservation of the same.
14.2	Acquisition and disposals of an approved item in the MTFP at below market value. The purchase or sale of land (on the basis set out in paragraph 14.1 where in respect of a purchase the value of the consideration (fee + benefit foregone) does not exceed £50,000 or in respect of a sale the value of the consideration and the undervalue foregone do not together exceed £250,000. Where a sale is pursuant to Section 123 Local Government Act 1972, Section 32 Housing Act 1985 or Section 25 Local Government Act 1988, consent to the Secretary of State may be sought as necessary.	✓	✓	Resources Directorate only		Subject to reference to Policy and Resources Committee by the Director of Resources re areas of open space or land in the nature of open space if there is significant public interest in the preservation of the same.
14.3	Compulsory Disposals. Any sale or lease of land pursuant to the Right to Buy or the Right of Enfranchisement under the Housing Act 1985,	✓	✓	Resources Directorate only		

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
	the Leasehold Reform Act 1967 or The Leasehold Reform Housing and Urban Development Act 1993 subject to compliance with the statutory procedures.					
15. Regulation of Investigatory Powers Act 2000						
15.1	Authorise persons to conduct surveillance in accordance with covert surveillance policy	✓				The Deputy Chief Executive and Director of Resources or Director of Regeneration and Planning following consultation with the Monitoring Officer
16. Constitutional & Legal						
16.1	Affix the Common Seal of the Council to documents	✓				
16.2	Certify that a photocopy of a document, order, report or minutes is a true copy	✓	✓	✓		
16.3	Institute, conduct and/or settle legal proceedings	✓	✓	✓		Within area of responsibility after consultation with Legal Services Manager
16.4	Issue, serve, receive and act upon notices and to impose requirements under any legislation enforced by the Council inc s16 of the Local Government (Miscellaneous Provisions) Act 1976, s19 of the Environmental Protections Act 1990 & s24 of the Town & Country Planning Act 1990	✓	✓	✓		

Decision		Chief Executive & Director	Chief Finance Officer	Head of Service	Team Manager	Notes
16.5	Obtain particulars of persons interested in land under s16 of the Local Government (Miscellaneous Provisions) Act 1976	✓	✓	✓		
16.6	Determine and respond to requests under the Freedom of Information Act 200 and the Environmental Information Regulations 2004	✓	✓	✓		Corporate centre must be consulted before applying an exemption. Where s36 is engaged Monitoring Officer must make decision.
16.7	Publish statutory advertisements and notices	✓	✓	✓	✓	

Proper Officers

The following officers have been designated “proper officers” for these functions:

Statute	Function	Proper Officer
Sections 84 and 85 Public Health Act 1936	Cleansing of filthy or verminous articles, persons or clothing	Director of Communities and Localism
Section 47 National Assistance Act 1948 as amended by the National Assistance Act 1951	Removal of persons to suitable accommodation in specified circumstances	Director of Communities and Localism
Section 37 Public Health Act 1961	Disinfestation of verminous articles offered for sale	Director of Communities and Localism
Section 83 Local Government Act 1972 (LGA 1972)	Witness and receipt of declarations of acceptance of office of Chairman, Vice-Chairman and Councillors	Chief Executive Deputy Chief Executive
Section 84 LGA 1972	Receipt of written notice of resignation of office of Chairman, Vice-Chairman and Councillors	Chief Executive Deputy Chief Executive
Section 88 LGA 1972	Convene a Council meeting for the election to the vacant office of Chairman of the Council.	Chief Executive Deputy Chief Executive
Section 89 LGA 1972	Receipt of notice in writing of a casual vacancy occurring in the office of Councillor given by two local government electors for the electoral area.	Chief Executive Deputy Chief Executive
Section 100b(2) LGA 1972	Exclusion from council agendas any information which is likely to be dealt with in the absence of the press and public.	Chief Executive and Directors
Section 100B(7)c LGA 1972	Supply to any newspaper copies of documents supplied to Members of the Council in connection with an item to be considered at a meeting.	Chief Executive and Directors

Statute	Function	Proper Officer
Section 100C (2) LGA 1972	Preparation of a written summary of proceedings of committees and sub-committees of the Council.	Chief Executive Deputy Chief Executive
Section 100D(1)a LGA 1972	Preparation of a list of background documents for reports considered by committees and sub-committees of the Council	Chief Executive Deputy Chief Executive
Section 115 LGA 1972	Receipt of monies from accountable officers	Chief Finance Officer
Section 146 LGA 1972	Certificates as to securities on alteration of local authority area or name	Director of Resources
Section 151 LGA 1972 (and Section 114 Local Government and Finance Act 1988)	Responsibility for the proper administration of the Council's financial affairs.	Chief Finance Officer Deputy Chief Finance Officer
Section 225 LGA 1972	Deposit of any documents pursuant to any enactment, instrument or parliamentary standing orders	Directors
Section 229 LGA 1972	Certification of any photographic copy of a document in the custody of the council or of any document destroyed while in which custody, or any part of such document	Chief Executive Deputy Chief Executive
Section 231 LGA 1972	Receive documents required to be served on the council	Chief Executive Deputy Chief Executive
Section 234 LGA 1972	Signature or authentication of any notice or other document which the local authority is authorised or required to give or make or issue	Chief Executive & Directors
Section 238 LGA 1972	Certification of printed copies of by-laws	Chief Executive Deputy Chief Executive
Schedule 12 (para. 4(2)(b)) LGA 1972	Signature of summons to attend council meetings and receipt of notices regarding the address to which a summons to a meeting is to be sent.	Chief Executive Deputy Chief Executive

Statute	Function	Proper Officer
Schedule 14 (para. 25(7)) LGA 1972	Responsibility for true copies of resolutions.	Chief Executive Deputy Chief Executive
Sections 3 and 19 Land Charges Act 1975	Act as the Local Registrar.	Director of Resources
Section 41 Local Government (Miscellaneous Provisions) Act 1976.	Certification of minutes, resolution, orders & reports as evidence of resolutions of proceedings	Chief Executive
Section 28 Representation of the People Act 1983 (RPA 1983)	Acting Returning Officer for a parliamentary election.	Chief Executive
Section 35 RPA 1983	Returning Officer for local government elections.	Chief Executive
Section 8 RPA 1983	Electoral Registration Officer.	Chief Executive
Sections 11, 18, 20, 21, 22, 24, 29, and 31 – Public Health (Control of Disease) Act 1984; Regulations 8 and 9 and Schedules 3 and 4 – Public Health (Infectious Diseases) Regulations 1988	Notification and control powers for communicable diseases	Director of Communities and Localism
Ss 36, 40, 42, 43 and 48 – Public Health (Control of Disease) Act 1984; Regulations 6, 9, 10 and Schedules 3 and 4 – Public Health (Infectious Diseases) Regulations 1988	Notification and control powers for communicable diseases	Director of Neighbourhoods & Health
S.2 Local Government and Housing Act 1989 (LG&HA 1989)	Hold on deposit the list of politically restricted posts.	Human Resources Manager
Section 3 LG&HA 1989 as amended by Section 202 Local Government and Public Involvement in Health Act 2007	Issue employer's certificate for exemption from politically restricted posts.	Chief Executive Deputy Chief Executive

Statute	Function	Proper Officer
Section 4 LG&HA 1989	Head of the Paid Service.	Chief Executive
Section 5 LG&HA 1989	Monitoring Officer.	Director of Communities and Localism
Section 15 LG&HA 1989 & Local Government (Committees & Political Groups) Regulations 1990	Receipt of notices relating to the membership of political groups.	Chief Executive Deputy Chief Executive
Regulation 23 Non-Domestic (Collection & Enforcement) (Local Lists) Regulations 1989	Certification of the Local Non-Domestic List	Chief Finance Officer
Local Authorities (Referendums) (Petitions & Directions) Regulations 2000	Functions relating to verification and publicity of petitions	Electoral Registration Officer
Section 36 Freedom of Information Act 2000	Act as the 'qualified person'	Monitoring Officer Deputy Monitoring Officer
Local Authorities (Standing Orders) Regulations 2001	Notices regarding proposed appointments of staff	Chief Executive
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer	Electoral Registration Officer