Responsibility for Functions (Table 7)

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Scheme of Delegation

1. Introduction

1.1 The authority for delegating functions to the Cabinet, Committees and Officers is contained in Section 101 and 102 of the Local Government Act 1972 and Sections 9E, 9EA and 9EB of the Local Government Act 2000. The authority for delegation of functions by the Licensing Committee is contained in Sub Section 10 (1) of the Licensing Act 2003. Certain other delegations are implicit in Standing Orders, Procedure Rules, Financial Regulations and the Contract Regulations.

1.2 Delegations may also be given by individual resolutions, on the authority of the Leader of the Council, or as part of the approval of any policy, procedure or Protocol by the Cabinet or Council.

1.3 Subject to the following paragraphs, where any function, power or responsibility is delegated to any officer or body, that officer or body shall, unless otherwise stated in Part 3 of this Constitution, have full power to act in all respects in the name of the Council and may exercise in the name of the Council any discretion countenanced by statute, regulation or in common law in relation to the discharge of that function, power or responsibility and all matters ancillary or incidental thereto.

1.4 In this scheme of delegation, reference to:

(a) "Chief Officers" shall mean the Chief Executive (Head of Paid Service), Chief Finance Officer, Monitoring Officer, Chief Operating Officer and Joint Director of Planning and Economic Development.

(b) Head of Service, for the purposes of this scheme, means the Heads of Finance, HR and Corporate Services, Housing, Shared Waste and Environment and Transformation.

(c) the 'proper officer' shall mean the Chief Executive or such suitably experienced senior officer as the Chief Executive shall appoint.

2. General Principles

2.1 In the scheme of delegation, the following general principles shall apply:

(a) In exercising a delegated decision, decision takers shall have regard to all other parts of the Constitution, including the Financial Regulations and Contract Regulations.

(b) Wherever appropriate, the views of local members shall be sought and their views taken into account. Where local member(s) do not support a proposed decision by an officer the matter shall be referred to the lead cabinet member. Where a proposed decision of a lead cabinet member is not supported by any local member, the matter shall be referred to a meeting of the Cabinet, where the local member(s) shall have the right to speak. Decision-takers shall share with local members, at as early a stage as possible, what the proposed decision is likely to be so that local members may take a view on the matter quickly. The requirement for a reference to the Cabinet shall not apply in respect of a decision which has already been made and implemented or if five days have elapsed since notification of the decision.

(c) A lead cabinet member shall not make a decision on a matter which relates to their Ward or to an individual, household or organisation within their Ward. In such cases (or where for some other reason it would not be appropriate for a lead cabinet member to make a decision on a matter) or in the absence of the lead cabinet member, the decision shall be dealt with by the person or body by whom the delegation was made, as set out in the Cabinet Procedure Rules.

(d) In exercising delegated powers, lead cabinet members and officers are expected to refer “upwards” any issues they consider sensitive or controversial.

(e) Part 3 of this Constitution sets out the responsibility for Council functions and the responsibility for Executive functions. Table 4 of Part 3 shows which functions are presently delegated to the Cabinet as a whole and which are delegated to lead cabinet members. The following overall criteria shall apply to all functions specifically delegated to lead cabinet members:

(i) Where the function involves more than one area of cabinet responsibility, all relevant lead cabinet members shall come together for a decision, and in default of agreement, the matter shall be referred to the Cabinet for decision

(ii) If the lead cabinet member(s) think(s) the matter in question is of such a significance that the Cabinet should decide the matter, it shall be referred to the Cabinet accordingly

(iii) If the lead cabinet member is in any doubt as to whether any matter properly falls within their or another lead cabinet member’s functional responsibility or whether the matter is of such significance that the Cabinet should determine the matter, the

Leader shall rule accordingly (after consulting any persons the Leader may wish to consult) and such ruling shall be conclusive.

3. Restrictions on all Delegations

3.1 This scheme does not delegate to officers:

(a) Any matter reserved to full Council in accordance with Article 4;

(b) Any matter expressly reserved to Cabinet or a lead cabinet member in accordance with Table 4 of Part 3 of the Constitution;

(c) Any matter reserved to regulatory and other committees and sub committees in accordance with Part 3, Table 3;

(d) Any power which has been withdrawn from delegation;

(e) Any matter that by law may not be delegated to an officer;

(f) Any power to set fees or charges (except as specifically delegated in section 16 of paragraph 4.6 below);

(g) Any matter reserved to a specific statutory officer by law or under the provisions of this Constitution.

3.2 Except as may be provided in this Constitution or authorised by full Council, no officer, lead cabinet member, member, committee, sub-committee or the Cabinet shall exercise any power, function or responsibility in a way which is not in accordance with, or is contrary to, the budget or policy framework of the Council or is contrary to any policy of the Council bearing upon the matter in question.

4. Delegations to Officers

Delegation of Functions

4.1. Authority to exercise the powers and carry out all of the functions of the Council shall be delegated to Chief Officers and Heads of Service, subject to the exceptions set out in paragraph 3 above.

4.2. Chief Officers and Heads of Service shall have full power to do all such things and exercise all such discretions within their respective functions and areas of responsibility in relation to all operational matters. These powers, although described in general terms, are intended to allow Chief Officers and Heads of

Service freedom of operational management, in their respective service areas within policy and budget. The exercise of delegated powers is subject to the General Principles and Limitations set out in paragraphs 2 and 3 above and to the Council's decision-making requirements set out in paragraph 18 of the Access to Information Procedure Rules.

Chief Executive's General Delegated Power

4.3. The Chief Executive shall have power to act in the name of any other Chief Officer or Head of Service to whom a power has been delegated in this scheme of delegation, in their absence, except where such power is restricted by law to a Statutory Chief Officer (Chief Finance Officer or Monitoring Officer).

4.4 The Chief Executive (or any other Chief Officer or Head of Service in their absence) may exercise any power or function, which is in law capable of delegation, in any emergency threatening life, limb or substantial damage to property within the District, or where necessary in order for the Council to continue to carry out its functions or to maintain service delivery. This power shall include authority to incur expenditure not provided for within the budget or borrowing where the Chief Executive considers this essential for the purposes of managing or responding to the emergency or maintaining essential service delivery. The Chief Executive shall consult with the Leader of the Council (unless the Leader cannot be contacted after all reasonable efforts have been made). The Chief Executive shall update the Cabinet or Council, as appropriate, on the use of such powers.

4.5. The Chief Executive (or any other Chief Officer in their absence) may, after consultation with the Leader (or in their absence the Deputy Leader), act in a case of urgency in respect of any matter affecting the Council, subject to a report on the circumstances being made to the next Council or Cabinet meeting as appropriate.

Ancillary Powers of all Chief Officers/Heads of Service

4.6. Paragraphs 4.1 and 4.2 provide that all operational functions within their respective areas of responsibility. are delegated to Chief Officers/Heads of Service. However, for the avoidance of doubt, Chief Officers/Heads of Service shall have full delegated powers in the areas set out below:

	Power	**Delegated to:**
1.	To undertake day-to-day management of the premises and services for which they are responsible.	All Chief Officers/Heads of Service

2. To undertake day-to-day management and control of the staff reporting to them including: 2.1. making arrangements for recruitment and selection of staff and taking disciplinary action (including dismissal) in accordance with the Council's disciplinary procedures. (Officers at Head of Service level and below only. Recruitment and dismissal of Chief Officers shall be undertaken in compliance with the Officer Employment Procedure Rules). 2.2. appointing staff on a temporary basis within approved budgets and in accordance with Financial Regulations.(Officers at Head of Service level and below only) 2.3. authorising or refusing applications for regrading of relevant staff. 2.4. authorising any desired changes in workforce establishment	All Chief Officers/Heads of Service
3. To approve all new posts within approved budget	Head of Paid Service
4. To approve disposals and acquisitions of land and property in accordance with the provisions of the HRA Asset Sustainability Policy (Disposals and Acquisitions) [Note: 4.1 Subject to the consultations/notifications and conditions set out in the delegations approved within that policy. 4.2 The Leader varied the delegations in the above policy in November 2018. Paragraphs 66, 67 and 69 of Table 4, Part 3 (Responsibility for Executive Functions) refer]	All Chief Officers/Heads of Service

5.	To approve the acquisition and disposal of any interest in property by the Council (not covered by the HRA Asset Sustainability Policy referred to in 4 above or by the Council's Investment Strategy) where the value does not exceed Level 2 (provided the terms have been approved by the District Valuer, or the Council's valuer, and the Chief Finance Officer and the acquisition or disposal is a necessary part of a policy, scheme or plan approved by the Cabinet, or where required, the Council).	All Chief Officers/Heads of Service
6.	To dispose, for the best terms available, of vehicles, stores and equipment which, following consultation with the Chief Finance Officer, they consider to be surplus to requirements.	
7.	To approve, subject to the conditions below: 7.1 Non-statutory grants up to and including level 2; and 7.2 Statutory grants, such as disabled facility grants, up to and including level 3. [Conditions: Such awards to be consistent with policy (eg: the Cambridgeshire Housing Adaptations and Repairs Policy (April 2019)].	All Chief Officers/Heads of Service
8.	To approve any requests for financial assistance, grants or services from the Council falling outside the normal rules or policies. (Examples would include (but not exclusively): 8.1 Rate relief; 8.2 Rents or charges; 8.3 Ex-gratia payments or compensation up to and including Level 2.)	All Chief Officers/Heads of Service

9.	To accept tenders and other procurement decisions in compliance with the Council's Contract Regulations. (see paragraphs 28 and 29 of Table 4 of Part 3 (Responsibility for Executive Functions) as to matters reserved to Cabinet or lead cabinet member)	All Chief Officers/Heads of Service
10.	To write off any individual debt up to and including Level 2, subject to being satisfied that all action for recovery of the debt appropriate to the amount has been taken (see Financial Regulation 13.8)	Chief Finance Officer
11.	To determine applications for discretionary rate relief within the approved policy and criteria and to determine discretionary housing payments.	Chief Finance Officer
12.	To approve the Council Tax base in accordance with Section 67 of the Local Government Finance Act 1992, as amended by Section 84 of the Local Government Finance Act 2003.	Chief Finance Officer
13.	To review and determine the boundaries of rural settlements for the administration of Rural Rate Relief in accordance with Section 42B of the Local Government and Rating Act 1997.	Chief Finance Officer
14.	To approve allowances or expenses to Council tenants.	All Chief Officers/Heads of Service
15.	In accordance with the provisions of the Council's Investment Strategy:- 15.1. To progress investment opportunities, including due diligence checks; and 15.2. To submit non-binding offers in line with market practice.	Chief Finance Officer
16.	To vary charges or introduce new charges during the course of the year where it is considered essential to do so in order to maintain income levels, improve the	All Chief Officers/Heads of Service (after

	service offer to users and/or where opportunities arise to increase income.	consultation with relevant Lead Cabinet Member)
17.	(a) To make appointments, removals or replacements of members to any committee, sub-committee or other forum (including substitutes), in accordance with the wishes of the Leader of the political group to which the seat has been allocated. (b) To fill vacancies on non-executive outside bodies. subject to report to the next available meeting of the Council	Head of Paid Service/Monitoring Officer

5. Sub-Delegation of Powers

5.1 Unless limited by any provision in this Constitution, Chief Officers/Heads of Service shall have authority to delegate their powers, functions and responsibilities, wholly or in part, to another Chief Officer/Head of Service or to any other suitably experienced and qualified officer. These officers shall themselves have discretion to delegate powers to be exercised by suitably qualified and experienced officers within their areas of responsibility, subject to any limitations on further delegation which may be imposed. In all cases:

(a) General and specific delegations, and any limitations upon them, shall be set out in writing and kept up to date.

(b) Chief Officers/Heads of Service shall remain accountable for the actions of subordinate officers and may continue to exercise or share those powers.

(c) Any body or member of the Cabinet, with delegated powers may delegate any such power or responsibility to the relevant Chief Officer/Head of Service but shall remain accountable and may continue to exercise or share those powers, functions or responsibilities.

(d) The exercise of any delegated power, function or responsibility may be restricted by the delegating person or body. Restrictions may be financial, numerical, subject to local member(s)', Leader's and / or committee chair's consultation or approval, subject to time limit, or in any other way.

6. Recording and Reporting of Delegation of Powers

6.1 All persons and bodies with delegated powers shall record and report substantive decisions made under those powers in accordance with the requirements of the Access to Information Procedure Rules. Any key decision taken by a lead cabinet member or officer shall be recorded and published in accordance with the requirements of the Access to Information Procedure Rules.

6.2 The Leader may refine the allocation of functions and responsibilities set out in Table 4 in Part 3 of this Constitution as they wish. To effect changes, the Leader shall provide details of the changes they wish to make in writing to the Chief Executive, such changes to have effect immediately upon subsequent written notification to all members.

6.3 Changes to the Scheme of Delegation to Officers shall be authorised by the Chief Executive.

7. Validity of Decisions Taken Under Delegated Powers

7.1 It shall be presumed that any recorded delegated power remains extant (within any limits set thereon if appropriate) unless the Leader of the Council, Council or Chief Executive, as the case may be, determines or changes that delegation and either the proper officer certifies that fact or there is an approved minute of any such determination or change.

7.2 In the event that a post ceases to exist or where the name of a post changes or where responsibilities are transferred to another post holder, temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.

7.3 The exercise or purported exercise of any recorded delegated power shall be valid for all purposes, notwithstanding that there may have been any inadvertent defect in formality in the giving of notice of any meeting to any councillor, inadvertent failure to consult any person or observe any protocol or code contained in this Constitution or any other administrative error. This shall not apply to any purported exercise of any power by a non-quorate body.

8. Proper Officer Responsibilities

8.1 Unless otherwise provided by law or in this Constitution, each Chief Officer/Head of Service, within their respective functions and areas of responsibility, shall also be the respective ‘proper officer’ in all cases where statute or regulation requires or provides for the Council to appoint a ‘proper

officer' but any Chief Officer/Head of Service may delegate any such responsibility to a suitably experienced senior officer. The Chief Executive shall also be authorised to appoint suitably qualified persons, not employed by the Council, as proper officers, as deemed necessary.

8.2 All proper officer appointments not already set out in this Constitution, other than general appointments under paragraph 8.1 above, whether of, or under delegation by, any Chief Officer, shall be recorded by the Chief Executive and that record shall be kept up to date and available for inspection in the same manner as the scheme of delegations of powers.