

# **SCHEME OF DELEGATION TO OFFICERS**

**(APPROVED BY FULL COUNCIL ON 26<sup>TH</sup> SEPTEMBER 2013)**

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# SCHEME OF DELEGATION TO OFFICERS

## 1. GENERAL CONDITIONS APPLYING TO ALL DELEGATED POWERS

1.1 The powers delegated in this Scheme must be exercised in accordance with:

- (1) the Council's Constitution;
- (2) relevant policies of the Council;
- (3) approved budgets;
- (4) decisions of the Council and its Committees.

1.2 The Chief Executive or Directors need not exercise their delegated powers and must not if, in their opinion, the matter involves questions of policy not yet determined by the Council.

1.3 Unless prohibited by law, the Chief Executive and each Director may delegate any power to another Director or the Chief Executive and authorise other officers by designation to exercise defined powers.

1.4 Delegated powers include carrying out all duties and powers covered by the function, including administrative and procedural acts, exercising discretion, making determinations, and imposing, amending, deleting, revoking, enforcing conditions, limitations, restrictions or other terms on any approval, consent, licence, permission or registration.

**1.5 All powers delegated under this Scheme are subject to the Protocols set out in paragraph 9. These Protocols are designed to limit or qualify the exercise of those powers by the Chief Executive and Directors and to ensure that Members of the Council have adequate opportunity to comment on and be involved in the decision-making process, where appropriate.**

## 2. GENERAL POWERS DELEGATED TO THE CHIEF EXECUTIVE AND DIRECTORS

2.1 To exercise those powers and functions allocated to them under the Council's Constitution.

2.2 To undertake the day-to-day management of their Directorates and the services for which they are responsible, including the deployment of personnel, premises, finance, vehicles, plant, equipment and other resources under their control.

2.3 Subject to the overall control of the Chief Executive and within the Council's approved establishment, policies and procedures, to recruit, manage and, if necessary, to dismiss staff within their control, including:

- (1) authorising pay and conditions;
  - (2) undertaking disciplinary and grievance proceedings;
  - (3) defending and, if necessary (and subject to the approval of the Director of Finance and Corporate Services if it involves claiming on the Council's insurance), settling any claims made against the Council;
  - (4) taking overall responsibility for the health and safety at work of employees;
  - (5) implementing all approved employment policies, practices and procedures.
- 2.4 To acquire, grant and dispose of rights in land, premises, vehicles, plant, equipment and other property on such terms and conditions as considered appropriate.
- 2.5 To provide and commission goods and services and to undertake and commission works.
- 2.6 To provide grants and other financial assistance.

### **3. POWERS DELEGATED TO THE CHIEF EXECUTIVE**

3.1 To be Head of Paid Service for the Council.

#### **3.2 Administration**

- (1) To undertake all administrative functions of the Council relating to the operation of the Council's Constitution and meetings of the Council, its Committees and Panels.
- (2) To undertake all functions relating to Parish Councils.
- (3) To undertake all functions relating to civic matters.
- (4) To formulate and co-ordinate advice on strategic and corporate policy, continuous performance assessment, use of resources, and value for money.
- (5) To undertake all functions relating to electoral matters.
- (6) To approve attendance of Members at conferences, seminars, etc, in consultation with the Leader or Deputy Leader of the Council.

#### **3.3 Legal, Licensing and Economic Development**

- (1) To undertake all legal functions, including:

- authorising, instituting, defending, appearing in or settling any legal proceedings;
- issuing or serving any notice or order which is not the responsibility of any Director.

(2) To undertake all functions relating to licensing, including:

- street and house-to-house collections;
- amusements, lotteries and gaming;
- taxi and private hire licensing;
- alcohol, entertainment and late night refreshment;
- riding establishments;
- animal boarding;
- dog breeding;
- sex establishments;
- personal treatments i.e. tattoo, piercing;
- street trading;
- pet shops;
- zoos;
- dangerous wild animals;
- scrap metal.

(3) To be responsible for all functions relating to the promotion of the economic regeneration of South Derbyshire, working in partnership with local, sub-regional and regional agencies to develop the local economy and workforce, including:

- attracting inward investment, of businesses and employment, to the District;
- attracting visitors, from the UK and overseas, to South Derbyshire and the National Forest;
- supporting business development, by providing advice and support to local businesses and tourism enterprises;
- providing visitor information to visitors and local residents, principally through the operation of a Tourist Information Centre.

(4) To authorise and witness, with the Chairman or Vice-Chairman of the Council, the execution of deeds by affixing the Council's Common Seal.

### 3.4 Probity Issues

To be responsible for all probity issues and to co-ordinate the response to complaints against the Council, including settling complaints and paying compensation.

### 3.5 Debts

To write off debts up to £2,500, in consultation with the Director of Finance and Corporate Services.

#### **4. POWERS DELEGATED TO THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

4.1 To have overall control of the Council's finances and to act as financial adviser to the Council, its Committees, the Chief Executive and Directors.

#### 4.2 Financial Services

(1) To undertake all functions in relation to:

- accountancy matters, including bank accounts;
- investments;
- insurances;
- risk management;
- Housing and Council Tax Benefits;
- Council Tax and Non-Domestic Rates and other revenues
- Non-Domestic Rate Relief;
- payroll and related matters;
- pensions;
- debtors and creditors;
- Collection Fund;
- investigation of fraud and impropriety.

(2) To control all funds and reserves.

#### 4.3 Information Technology and Business Improvement

(1) To be responsible for providing and supporting the Council's Information Technology needs, and for ensuring that Information Technology resources are used appropriately and efficiently in accordance with the Council's corporate framework.

(2) To ensure that the Council's Information Technology is secure and that it follows best practice guidelines, such as Government Connect.

(3) To be responsible for providing the Council with effective, efficient and economic procurement and continuous business improvement that enables value for money in the delivery of services.

(4) To ensure that the Council's ICT Strategy and Procurement Strategy are kept up to date with any necessary minor amendments.

(5) To ensure that the Council's Data Quality strategy is adopted across the Council, to ensure data is accurate, valid, reliable, timely, relevant and complete.

(6) To be responsible for co-ordinating responses to Freedom of Information and Data Protection requests and for ensuring that the Council's Freedom of Information Publication scheme is kept up to date.

#### 4.4 Customer Services

To be responsible for providing an integrated Customer Service.

#### 4.5 Organisational Development

- (1) To be responsible for providing an effective Human Resources Service, including the formulation, implementation and monitoring of fair and effective employment policies, practices and procedures; compliant health and safety framework and learning and development service.
- (2) To undertake functions, other than those which are the responsibility of other Chief Officers, relating to the development, management, co-ordination and monitoring of corporate policy objectives, including:
  - managing delivery of Corporate Policy including the production of corporate Policy documents including the Corporate Plan and Annual Report;
  - responding to Government's requirements for the assessment of Local Councils and Services;
  - developing and co-ordinating the performance management framework (the Corporate Plan, Service Plans and National Performance Indicators);
  - supporting and co-ordinating arrangements for consultation, including management of the South Derbyshire Citizens' Panel;
  - developing the Council's approach to Equality, Fairness and Social Inclusion issues.
- (3) To undertake functions relating to the provision of an effective internal and external communications service.

#### 4.6 Internal Audit

To be responsible for providing an effective Internal Audit Service.

#### 4.7 Corporate Property and Asset Management

To be responsible for the effective strategic management and co-ordination of corporate property and asset management planning.

#### 4.8 Land Charges

To undertake and co-ordinate all functions relating to Local Land Charges and Enquiries.

#### 4.9 Miscellaneous

To act as Treasurer to the Etwall Leisure Centre Joint Management Committee.

**5. POWERS DELEGATED TO THE DIRECTOR OF FINANCE AND CORPORATE SERVICES, THE DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES AND THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

- 5.1 In the absence of the Chief Executive, to authorise and witness, with the Chairman or Vice-Chairman of the Council, the execution of deeds by affixing the Council's Common Seal.

**6. POWERS DELEGATED TO THE DIRECTOR OF HOUSING AND ENVIRONMENTAL SERVICES**

6.1 Housing Services

To undertake all functions relating to Housing including:

- housing management;
- maintenance and improvement of the Council's housing stock and its environment;
- facilitating the provision of housing and incidental amenities;
- housing advice, advances and grants;
- mobile homes;
- permanent gypsy/traveler sites;
- homelessness;
- crime, disorder and anti-social behavior reduction, in liaison with the Police, in council housing and in general community;
- harassment and unlawful eviction;
- housing related support services.

6.2 Environmental Services and Health

To undertake all functions relating to Environmental Services and Health, including:

- public health;
- recycling;
- food sales, safety and standards;
- caravan sites;
- Health and Safety at Work;
- cleansing of highways and other public areas;
- pollution control;
- exhumations;
- public conveniences;
- bus shelters;
- street name plates and signs for Council functions;
- street furniture and litter bins
- refuse collection and disposal;
- pest control;
- shops and Sunday trading;

- animals;
- litter and fly tipping – prevention and clearance;
- home safety;
- water supply, standards and safety;
- housing conditions, standards and safety;
- housing improvement and renovation;
- public nuisance;
- high hedges;
- drainage and sewers;
- dogs;
- smoking prohibition;
- environmental management;
- climate change;
- grounds and highway verge maintenance.

## **7. POWERS DELEGATED TO THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

### **7.1 Culture and Community**

(1) To be responsible for all functions relating to Culture and Community services including:

- indoor and outdoor leisure facilities;
- public parks and open spaces;
- arts, heritage, community, sport, play, health and leisure activities;
- environmental education;
- cemeteries, crematoria and mortuaries;
- welfare funerals;
- grant aid support to voluntary organisations;
- developing a Sustainable Community Strategy for South Derbyshire through the South Derbyshire Partnership.

(2) To be responsible for all functions relating to the Safer South Derbyshire Partnership:

- community safety, crime, disorder and anti-social behavior reduction, in liaison with the Police.

### **7.2 Planning and Development Management**

All functions in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto), shall be delegated to the Development and Building Control Manager, including the following:

- to determine all planning applications, approval of reserved matters, prior notifications/determinations/approvals, consents and consultations (including those from County Council and neighbouring authorities), submitted to or received by the Council;



- to determine non-material amendments and minor material amendments to planning permissions;
- to determine extensions to the time limits for implementing planning permissions;
- to determine applications for certificates of lawfulness for proposed or existing uses or development;
- to approve details submitted in compliance with conditions on planning permissions;
- to determine whether an Environmental Impact Assessment is required to accompany a planning application, and the matters to be covered in the assessment (i.e. issuing of screening and scoping opinions);
- to negotiate the terms of section 106 agreements and/or the Community Infrastructure Levy in accordance with the Adopted Charging Schedule;
- to decline to determine planning applications under section 70(a) of the Town and Country Planning Act 1990;
- to submit an order to the Secretary of State for revocation of a Hazardous Substances Consent;
- to serve building preservation notices under section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as may be amended) in consultation with the Chairman of the Planning Committee;
- to serve repairs notices on listed buildings under section 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990;
- to execute urgent works under section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990;
- to make, confirm and revoke tree preservation orders where there are no objections, in consultation with the Chairman of the Planning Committee;
- to serve hedgerow retention notices;
- to respond to notices of intention to carry out works to trees in conservation areas;
- Statements of Community Consultation for applications to the Planning Inspectorate Major Infrastructure Planning Unit (as may be superseded);
- submission of all necessary statements, proofs of evidence, etc, as required as part of the planning appeals process;
- to carry out any necessary changes to procedures in line with government guidance/statutory requirements;
- to negotiate and agree the terms of Planning Performance Agreements;
- to respond to informal development enquiries;
- to make and, where no objections are received, confirm footpath diversion orders;
- the registration and verification of initial notices submitted by Approved Inspectors under the Building Act 1984.

### 7.3 Planning Enforcement

To undertake all functions in relation to Planning Enforcement, including:

- to take any formal enforcement action in relation to cases of unauthorised Development, not covered by other specific delegated authority, in accordance with the Council's Adopted Local Enforcement Plan;

- to serve enforcement notices, stop notices and temporary stop notices under the Town and Country Planning Act 1990;
- to serve requisitions for information under Section 330 of the Town and Country Planning Act 1990;
- to serve planning contravention notices under Section 171C of the Town and Country Planning Act 1990;
- to serve breach of condition notices;
- to take action under Section 224 of the Town and Country Planning Act 1990 and the Town and Country (Control of Advertisement) Regulations in respect of unauthorised advertisements;
- to withdraw a planning enforcement notice where planning permission for the development has subsequently been granted;
- to remove or obliterate posters under Section 225 of the Town and Country Planning Act 1990;
- to serve notices under Section 215 of the Town and Country Planning Act 1990 requiring the proper maintenance of land;
- to carry out any necessary changes to procedures/the Adopted Local Enforcement Plan in line with government guidance/statutory requirements;
- to enter land and buildings as authorised under:
  - Town and Country Planning Act 1990 (as may be amended);
  - Town and Country Planning (Listed Building and Conservation Areas) Act 1990 (as may be amended);
  - Planning (Hazardous Substances) Act 1990 (as amended);
  - Planning (Hedgerow Regulations) Act 1997;
  - Local Government (Miscellaneous Provisions) Act 1976, 1982;
  - Planning (Consequential Provisions) Act 1990 (as amended).

#### 7.4 Building Control

To undertake all functions in relation to Building Control, including:

- plans and notices deposited under the Building Regulations;
- site inspection of building work in progress for Building Regulation and associated legislation compliance;
- determination of applications and the issue of legal certificates
- investigation of reports of unauthorised work and the taking of appropriate action to deal with those works, along with any contravention of the regulation;
- to provide professional advice regarding the Building Regulations and compliance thereto;
- assessment and variation of charges under the Council's Scheme of Charges;
- Building Act 1984, Part II notices;
- applications for Building Regulations dispensation or relaxation;
- the authority to deal with the control of dangerous structures and to act as the proper officer where such emergencies make it necessary (and to authorise Surveyors at East Staffordshire Borough Council to act on the Council's behalf in accordance with an agreed protocol);
- requisitions for information;

- enforcement notices under the Building Act 1984;
- Local authority national type approval consortium scheme notices;
- local authority building control national partnering scheme;
- street naming and house numbering and fee setting thereof;
- to enter land and buildings as authorised under the Building Act 1984;
- to take all actions prescribed by Sections 77 – 81 of the Building Act 1984;
- to take all actions prescribed by Sections 36 and 59 of the Building Act 1984.

## 7.5 Planning Policy

To undertake all Planning Policy functions, including:

- to develop and implement the Local Plan (Local Development Framework (LDF)) for the District;
- to commission and undertake research and evidence in connection with the above;
- to devise and undertake public consultation.

## 8. **POWER DELEGATED TO THE LEGAL AND DEMOCRATIC SERVICES MANAGER**

8.1 To be Monitoring Officer for the Council.

## 9. **THE PROTOCOLS**

### 9.1 Financial Services Protocol

- (1) All budgetary and financial decision-making is subject to the Council's Financial Regulations and Financial Procedures.
- (2) All decisions on Non-Domestic Rate Relief are subject to the Council's Delegated Scheme for the Granting of Discretionary Rate Relief, Discretionary Rural Rate Relief and Hardship Relief.

### 9.2 Organisational Development Protocol

- (1) All proposals to alter the Council's establishment involving increased expenditure will be presented to Finance and Management Committee for determination.
- (2) Delegated powers in relation to the Corporate Plan are subject to the Annual Report and Plan Summary approved by Council, and to performance reports managed by and reported to relevant policy committees.

- (3) Delegated powers in relation to Performance Management are subject to the Performance Management framework approved from time to time by the Finance and Management Committee.
- (4) Delegated powers in relation to consultation are subject to the Consultation Strategy and to specific consultation programmes agreed by relevant committees.
- (5) Delegated powers in relation to communication are subject to the Communication Strategy and to specific communication campaigns agreed by relevant committees.
- (6) All Citizens' Panel and Place Survey outcomes will be reported to Members, through the relevant committee or bulletin as appropriate.
- (7) Delegated powers in relation to Equality, Fairness and Social Inclusion are subject to relevant strategies, policies and schemes approved by the Council or appropriate committee.
- (8) Delegated powers in relation to the Overview and Scrutiny Committee are subject to the work plans of that committee.

### 9.3 Corporate Property and Asset Management Protocol

- (1) Any acquisitions or disposals of property will be undertaken only after receiving advice from a fully qualified valuer.
- (2) There is no delegated power to the Chief Executive or any Director to approve the acquisition or disposal of freehold land and property, or of leases or licences the premium or annual consideration for which exceeds £10,000. This excludes the re-letting of commercial and industrial property as part of the day-to-day management of the Council's property estate.

### 9.4 Planning Services Protocol

- (1) Where a formal objection from a statutory consultee is received in respect of a tree preservation order, trees in conservation areas, removal of hedgerows, or telecommunications development requiring prior notification to the local authority, delegated powers may be exercised only after consultation with the Chairman or Vice-Chairman of Planning Committee.
- (2) Delegated power on applications may be exercised only in the following cases:
  - the approval of non-major applications in conformity with development plan policies and/or supplementary planning guidance and national planning policy guidance/statements;
  - the refusal of non-major applications significantly in conflict with development plan policies and/or supplementary planning guidance and national planning policy guidance/statements;

- the approval of major applications which are not subject to a significant level of controversy and which conform to development plan policies and/or supplementary planning guidance and national planning policy guidance/statements;
- the refusal of major applications which are not subject to a significant level of controversy and which conflict with development plan policies and/or supplementary planning guidance and national planning policy guidance/statements;
- in the case of major applications which are not subject to a significant level of controversy and where there is no specifically relevant development plan policy or supplementary planning guidance and national planning policy guidance/statements, the determination of such applications in accordance with long-term, consistent precedent decisions and specialist advice from consultees;
- the approval of applications for hazardous substances consent;
- all Certificates of Lawfulness of Existing or Proposed Use or Development.

(3) Delegated power on enforcement action may be exercised only in the following cases:

- where there is a clear-cut conflict with development plan policies and/or supplementary planning guidance and national planning policy guidance/statements;
- where there has been a previous committee decision, which leads logically to a decision to enforce;
- where an appeal decision provides a precedent for enforcement;
- where a site is manifestly untidy;
- the issue of temporary stop notices.

(4) The following matters are specifically excluded from these delegated powers:

- any application (other than Certificates of Lawfulness of Existing or Proposed Use or Development) which a Member requests to come before the Planning Committee;
- any major application or an application on a matter where there is no established planning policy or formal supplementary planning guidance and national planning policy guidance/statements, where a relevant parish council expresses a clear view in favour of the proposal which would otherwise be refused or a clear objection where the application would otherwise be approved;
- any application which has the potential for compensation payable by the Council;
- any application by or on behalf of a member of staff or Member of the Council;
- any application where the Council itself is the applicant;

- any other matter which, notwithstanding this Scheme of Delegation, the Development and Building Control Manager considers should be brought to the attention of Planning Committee.
- (5) A matter is to be regarded as being “subject to a level of significant controversy” if:
- more than two letters of objection from neighbours are received where the outcome could otherwise be an approval;
  - more than two letters of support from neighbours are received where the outcome could otherwise be a refusal;
  - advice given by any statutory consultee is inconsistent with the recommendation(s) of the Development and Building Control Manager.
- (6) “Applications” include:
- full, outline and reserved matters planning applications;
  - applications for advertisement, listed building and conservation area consents;
  - applications to demolish buildings;
  - applications for works to trees covered by tree preservation orders and notifications of works proposed to trees located in conservation areas and to remove hedgerows;
  - applications for renewal of permissions, removal or alteration of conditions;
  - applications relating to power lines;
  - applications for a certificate of lawfulness of existing or proposed use or development;
  - agricultural notifications;
  - applications for development by telecommunications operators;
  - applications made under general regulations for minor works equivalent to domestic applications from private householders;
  - applications for certificates of appropriate alternative developments;
  - applications for development from government departments;
  - consultation by neighbouring authorities and Derbyshire County Council.
- (7) “Major applications” mean those defined as such in the Town and Country Planning (General Procedure) Order 1995. “Non-major applications” mean all other householder applications and those not defined as major in the Town and Country Planning (General Procedure) Order 1995.
- (8) Legal agreements under s.106 of the Town and Country Planning Act 1990 are to be settled in liaison with the Legal and Democratic Services Manager.
- (9) Enforcement notices under s.36 and Part III of the Building Act 1984 are to be served in liaison with the Legal and Democratic Services Manager.

(10) The Council's Scheme of Charges under the Building Regulations may be varied:

- by up to and including 10% in consultation with the Director of Finance and Corporate Services
- by more than 10% in consultation with the Director of Finance and Corporate Services and the Chairman or Vice-Chairman of the Environmental and Development Services Committee, subject to all such decisions being reported to the next meeting of that committee.

(11) Where an objection is received to an application for street naming or house numbering and that objection remains unresolved, delegated power to determine the application may be exercised only after consultation with the Chairman and Vice-Chairman of the Environmental and Development Services Committee.

#### 9.5 Housing Services Protocol

Delegated powers in relation to the modification of Council dwellings to cater for chronically sick or disabled persons for minor adaptations is limited to a maximum value of £1,000 in any one case.

#### 9.6 Culture and Community Protocol

(1) Delegated powers in relation to the determination of requests to hire commons, parks and recreation grounds do not include the refusal of such requests or the approval of requests not in accordance with the Council's standard terms and conditions of hire. Approvals are to be subject to relevant Ward Members being notified and, where practicable, in consultation with the appropriate Area Forum.

(2) Delegated powers in relation to the Community Strategy for South Derbyshire are subject to the Community Strategy produced by the South Derbyshire Partnership and to the Partnership's Constitution. Reports monitoring performance of the Council's contributions to the Community Strategy will be reported to the Executive Board of the Partnership and relevant policy committees.

#### 9.7 Economic Regeneration Protocol

Delegated powers in relation to Economic Regeneration are subject to the Economic Regeneration Strategy agreed by the Environmental and Development Services Committee, and to the Committee's individual approval of larger or more complex Economic Regeneration projects.

#### 9.8 Environmental Services Protocol

Delegated powers in relation to housing, construction, regeneration and major adaptations in the public and private sectors do not include the refusal of applications for grants.

## 9.9 Licensing Protocol

- (1) Delegated powers in relation to the Council's functions under the Licensing Act 2003 must be exercised in accordance with the Statement of Licensing Policy for South Derbyshire District and, in particular, may not be exercised in respect of:
  - any application for a personal licence with unspent convictions;
  - any application to review a premises licence or club premises certificate;
  - any determination of a representation by a Responsible Authority on a temporary event notice;
  - any application for a personal licence, to vary a designated personal licence holder, for the transfer of a premises licence, or for interim authorities, where a representation is made by Derbyshire Constabulary;
  - any application for a premises licence or club premises certificate, a provisional statement, or to vary a premises licence or club premises certificate, if any representation is made.
- (2) Delegated powers in relation to hackney carriages or private hire vehicles, operators and drivers do not include the refusal of applications or renewals. Delegated powers do not include the revocation of licences.
- (3) Delegated powers in relation to other licensing functions do not include the refusal of applications for licences or refusal for their renewal.
- (4) Delegated powers in relation to the Council's functions under the Gambling Act 2005 must be exercised in accordance with the Statement of Licensing Policy (Gambling) and Statement of Principles Gambling Act 2005 for South Derbyshire District and, in particular, may not be exercised in respect of:
  - any application for a premises licence, or provisional statement, or to vary or transfer a premises licence, if any representation is made and not withdrawn;
  - any application to review a premises licence;
  - any application for a club gaming or club machine permit, if any representation is made and not withdrawn;
  - cancellation of club gaming, or club machine permits;
  - issuing a counter notice to a temporary use notice.