

## **SCHEME OF DELEGATION TO OFFICERS**

### **1.0 INTRODUCTION**

- 1.1 Elected Members set policy priorities and strategies to reflect local interests and needs and are responsible for allocating funding between individual priority areas and for approval of the methodology of implementation of policies and strategies.
- 1.2 Officers of the Authority are responsible for implementing these strategies and policies by delivering services and major initiatives. It is Officers who have responsibility for managing the Authority's day to day operations, within a policy and budgetary framework laid down by Members
- 1.3 The Chief Officer management arrangements for the Authority are overseen by a Corporate Leadership Board (CLB). This comprises the chief Executive, Executive Director of Strategic Commissioning, Chief Operating Officer, Director of Economic Growth and Prosperity, Director of Public Health, Director of Adult Services and Director of Children's Services.
- 1.4 Each member of CLB is accountable to the Chief Executive for leading the Services within his or her area of responsibility and ensuring that the services are managed in accordance with the objectives, plans, policies, programmes, budgets and processes of the Authority.
- 1.5 The powers of this Scheme are delegated to the officers referred to by title within this Scheme of Delegation. The powers are automatically transferred to any successor officer, to whom the functions are allocated, subsequent to any reorganisation of the Council's management arrangements.
- 1.6 The powers in this Scheme are delegated to CLB Members who will establish, operate and keep under review Local Schemes of Delegation (including Local Schemes of Financial Delegation) to cascade powers and responsibilities to Heads of Service and other officers. Local Schemes of Financial Delegation shall only be put in place after consultation with the Chief Operating Officer and shall comply with the Finance and Contract Procedure Rules and the Staff Employment Procedure Rules
- 1.7 This Scheme of Delegation to Chief Officers includes both Council and executive functions. The delegations are granted subject to decisions being taken in accordance with:
  - The limitations and requirements specified in the Scheme
  - approved policies and procedures of the Authority

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- The implementation plan and methodology of implementation of policies and strategies approved by the Portfolio Holder
- Statutory powers and requirements, guidance and Codes of Practice
- The approved budget and Policy Framework
- Planning permissions and other statutory consents
- Finance and Contract Procedure Rules and Staff Employment Procedure Rules
- EU Directives and tendering processes
- Principles of Natural Justice
- Professional Standards; and
- Subject to regular briefings between senior management and Portfolio Holder(s) responsible for the area under their purview

**Note:** CLB officers must comply with instructions from the Leader and Portfolio Holders to undertake work in furtherance of the development of new policy

- 1.8 Before taking decisions, Officers are under a duty to satisfy themselves that they have the duly delegated power to do so and that they have undertaken appropriate consultation. Appropriate advice must be taken where the matter involves professional or technical considerations that are not within the Officer's sphere of competence.
- 1.9 The delegations to Chief Officers include the power to do anything ancillary or incidental to, arising from, or necessary to give effect to or facilitate the exercise of powers and the discharge of functions, which are delegated, subject to the control measures highlighted in 1.6 above.
- 1.10 In some circumstances a person to whom a power has been delegated may consider a matter to be of such importance or sensitivity that their delegated authority should not be exercised. In these circumstances he or she may refer the matter back to the delegator for determination.
- 1.11 Any power delegated or cascaded under this Scheme can be exercised by the relevant CLB Member and in all cases by the Chief Executive personally. The Chief Executive may take powers of any CLB member and delegate it elsewhere for a temporary period
- 1.12 The Scheme of Delegation does not delegate to Officers:

- Any matter specifically reserved by law or by this Constitution to the Council, Cabinet or to any committee or sub-committee of the council
- Any matter in respect of which specific provision is made elsewhere in this Constitution
- Any matter which in law may not be delegated to an Officer
- Any Key Decision other than those in respect of which specific provision has been made

1.13 CLB Members have the power to take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of Cabinet and Council, without further reference to the Council or Cabinet to ensure effective and efficient implementation of these decisions, subject to the control measures highlighted in 1.6 above.

1.14 Actions taken under the above section may include:

- CLB members, with the agreement of the relevant portfolio holder, to undertake and consider the outcome of statutory and non statutory consultations on service provision,
- CLB members requesting a portfolio holder to offer advice on a Cabinet or Council decision; or to give direction as to how a Cabinet or Council decision shall be implemented to allow for minor changes to that decision, the desirability for which arises from a change of circumstances; responses to a consultation or new information. (Such matters will be recorded on a delegated decision form. In the event that the change of circumstances is significant the matter will be referred to the portfolio holder for a formal decision)

## **FINANCIAL AND CONTRACT APPROVAL LIMITS**

1.15 CLB Members are responsible for financial management within their Departments to ensure value for money. They shall manage the development of budget policy options with a detailed assessment of financial implications.

Note: The making of grants is not delegated to Officers. Grants up to £50,000 shall be for the decision of the relevant Portfolio Holder and grants over £50,000 shall be approved by Cabinet.

1.16 All in accordance with the Finance Procedure Rules, Chief Officers may enter into contracts and incur expenditure but must do so within financial limits and procedures set out in the Finance and Contract Procedure Rules and subject to the requirement that projects with an

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estimated cost of between £100,000 and £250,000 are to be brought before the appropriate policy Development Group for consideration and/or noting. The following is a summary of the provisions of the Finance Procedure Rules:

Virement	CLB	Greater than 10% of a net service but less than £100,000 (Revenue) Up to £100,000 between net Service Budgets (Revenue) within their area of responsibility Up to £100,000 funded from underspends within the approved Service Budget (Capital)
Virement	CLB in consultation with Finance Portfolio Holder	£100,000 and up to and including £250,000 (Revenue/ Capital)
Virement	Portfolio Holders and CLB in consultation with Performance Portfolio Holder, Finance Portfolio Holder via Executive Monitoring Board	£250,000 and up to £500,000 (Revenue/Capital)
Supplementary Estimate	CLB	Up to £100,000
Supplementary Estimate	CLB in consultation with Finance Portfolio Holder	£100,000 and up to £250,000
Supplementary Estimate	Portfolio Holders and CLB in consultation with Performance Portfolio Holder, Finance Portfolio Holder via Executive Monitoring Board	Between £500,000 and up to £1,000,000
Financial Impact of Change in Charges	CLB	Up to and including £100,000
Financial Impact of Change in Charges	Chief Operating Officer in consultation with Finance Portfolio Holder	More than £100,000 and up to and including £500,000
Bad Debt Write Off	CLB in consultation with Chief Operating officer	Up to and including £2,500
Bad Debt Write Off	CLB in consultation with Chief Operating officer and Head of Legal Services and Monitoring Officer	Over £2500 and up to and including £5,000
Bad Debt Write Off	CLB in consultation with Chief Operating Officer,	Over £10,000 and up to and including £50,000

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	Head of Legal Services and Monitoring Officer, appropriate Portfolio Holder and Finance Portfolio Holder	
Write off of losses of obsolete or surplus equipment, materials, vehicles or stores	CLB	Up to £5,000
Disposals of obsolete or surplus equipments, materials, vehicles or stores	CLB with consent of Finance Portfolio Holder	Over £5000
Approve Partnership proposals with an Accredited Body under the Contract Procedure Rules	CLB	Up to and including £100,000
Approve Partnership Proposals with an Accredited Body under the Contract Procedure Rules	CLB in Consultation with appropriate Portfolio Holder	Over £100,000 and up to £500,000
Approve Partnership Proposals with a Non-Accredited Body under the Contract Procedure Rules	CLB in consultation with Portfolio Holder for Finance	Up to £250,000

### STAFFING

1.17 CLB Members are authorised to deal with the full range of employment and staff management issues, below CLB level including but not limited to appointments, terms and conditions (other than those negotiated nationally) training, discipline, dismissal, performance, progression, promotion, shifts and working hours, grievance, grading, emoluments, expenses, allowances, sick pay, leave, equal opportunities and health and safety in accordance with approved policies and the Staff Employment Procedure Rules. This delegation shall **not** include:

- making a post redundant,
- conducting appeals against dismissal
- authority to sign a compromise agreement containing a clause requiring the non-disclosure of confidential information by the employee/ex-employee
- **conducting appeals on the outcome of grievance hearings**

**Note:** Recruitment of CLB Members shall be undertaken only via Staffing Committee, including the approval of job descriptions and person specifications

- 1.18 CLB Members are authorised, subject to prior notification of the Head of Organisational Development and prior consultation with all appropriate parties affected by the decision, including any Trade Union, to implement changes to staffing structures except where the restructure:
- Involves loss of one or more posts not currently vacant
  - Involves regrading of posts or the grading of new posts
  - Involves changes to existing National or Local Agreements and policies
  - Cannot be achieved within delegated powers in respect of budgets
- 1.19 To enter into reciprocal arrangements for the authorisation and appointment of Officers to facilitate cross-border co-operation in the discharge of delegated functions with any other local authority and to transfer enforcement functions to another enforcement authority, **subject to approval by Cabinet.**

## **MANAGEMENT OF LAND PREMISES VEHICLES AND EQUIPMENT**

- 1.20 In order to facilitate operational requirements:
- CLB Members are authorised to manage, in accordance with all appropriate service standards and policies approved by the Council or Cabinet, land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture appliances and uniforms necessary for the provision of services.
  - In respect of vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture, appliances and uniforms this includes but is not limited to cleaning, maintenance, letting or hire and authorising the write-off loss or disposal of the same where obsolete or surplus to operational requirements (limits are in accordance with the Finance Procedure Rules).
  - In respect of land and premises this includes but is not limited to, cleaning, maintenance and letting or hiring for up to 12 months
- 1.21 To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services) Act 1970 and all other enabling legislation ~~and with the approval of the relevant Portfolio Holder to set fees and charges for these goods and services~~

## **LEGAL AUTHORISATIONS AND COMPLIANCE**

- 1.22 CLB Members shall implement and ensure compliance with the Authority's procedures relating to data protection, freedom of

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information, human rights and surveillance activities and shall only withhold the publication of requested information with the permission of the relevant Portfolio Holder, ~~which permission~~ **who's refusal** shall not override the Scheme of Publication.

- 1.23 CLB Members shall have power to authorise Officers (and such other persons where permitted by law) possessing such qualifications as may be required by law and where CLB Members are satisfied that appropriate training has been undertaken, to
- Take samples, carry out inspections or surveys, enter land and premises and generally perform the functions of and/or act as a duly authorised, or Proper Officer of the Authority (howsoever described)
  - To issue certificates of authority or certify copies of documents
  - To enforce the requirements of legislation
- 1.24 With the approval of the Head of Legal Services and Monitoring Officer, CLB Members shall have power to
- authorise the issue and service of requisitions for information, any notice, order or direction
  - Approve or issue any licence which may be required or authorised by or under any legislation or byelaws (not otherwise mentioned in this scheme of delegation)
  - Authorise the institution of legal and quasi-legal proceedings and/or other action (including debt recovery) as is considered necessary to protect the interests of the Authority
  - Sign certificates for contracts
- 1.25 CLB Members are authorised to make application for planning permission and any other necessary applications for other consents required for the development of land, subject to notification to the appropriate Portfolio Holder **and Ward Members**. No development shall take place before planning permission is obtained.
- 1.26 CLB Members are authorised to undertake all steps required to complete Government Statistical Returns and to respond to Government Consultations and consultations from other bodies, in consultation with the relevant portfolio holder(s) or committee chairman.
- 1.27 Whenever legislation is amended or replaced by new provisions, then the relevant delegated authority in this scheme applies to those new provisions.

## **SAFEGUARDING CHILDREN AND VULNERABLE ADULTS**

- 1.28 CLB Members shall ensure that arrangements are in place to discharge the responsibilities of the Authority in respect of the need to safeguard and promote the welfare of children and of vulnerable adults.

Note: Where the Council approves any restructure of services, whereby a service is moved to be the responsibility of another Director, the delegated authorities in respect of that service will move to the officer taking on the new responsibility

## **2.0 CHIEF EXECUTIVE**

- 2.1 The Council's Chief Executive is the Council's Head of Paid Service appointed by Council. Under Section 4 of the Local Government and Housing Act 1989 the responsibility of the Head of Paid Service is to make proposals to the authority in the manner in which the discharge of the authority's functions are co-ordinated and the numbers, grades and organisation of staff required and the proper management of those staff. In respect of the Chief Executive role the responsibility is to develop for Member approval a strategic vision and to provide strategic leadership for the Council. It comprises the following main functions:
- 2.2 Within the following areas the Chief Executive/Head of Paid Service is empowered to operate the services of the Directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including but not limited to the following:

### **CHIEF EXECUTIVE/HEAD OF PAID SERVICE ROLE**

- 2.3 To be the Authority's principal officer representative and to promote its good image and reputation
- 2.4 To exercise the powers and responsibilities of any CLB Member in his or her absence
- 2.5 To lead and direct the strategic management of the Authority  
To ensure the effective pursuit and achievement of the Authority's objectives
- 2.6 To ensure the Authority's activities are carried out with maximum effectiveness and efficiency
- 2.7 To discharge emergency planning and civil protection functions
- 2.8 To act as the Authority's Proper Officer in respect of the following under the Local Government Act 1972 unless stated:



- Declaration of acceptance of office by chairman, vice-chairman or councillor (Section 83)
- Receipt of resignation of officer by person elected (Section 84)
- Keeping the role of Freeman (Section 248 (2))
- Compile list of Politically Restricted Posts under Section 2 of the Local Government and Housing Act 1989

### **3.0 DIRECTOR OF ECONOMIC GROWTH AND PROSPERITY**

3.1 The Director of Economic Growth and Prosperity has overall responsibility for the operational management of the Places and Organisational Capacity Directorate and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to provide the services for which this directorate is responsible. It comprises the following main functions:-

#### **1. Economic Growth and Prosperity**

- Economic Intelligence and investment planning
- Skills for Work
- 14+Education, Apprenticeships and NEETS
- Adult Education and Lifelong Learning
- Learner Information, Advice and Guidance Services
- Tourism, Visitor Economy, Culture, Arts and Heritage (including Tatton Vision)
- Business Engagement and Support
- Land and Property Acquisition, Disposal and Management
- Strategic infrastructure projects
- Employment Sites
- Housing Strategy and Development
- Highways/Transport Strategy
- Strategic/Spatial planning
- Rural Economy/Access
- Sustainable Towns
- Inward Investment and Funding
- Local Enterprise Partnership
- Enterprise
- Development Control (major applications)
- Corporate landlord

#### **2. Public Protection and Enforcement**

- CCTV
- Offender Management and some aspects of Youth Offending
- Victim Support
- Licensing

- Planning Enforcement
- Housing Enforcement
- Trading Standards
- Environmental Health
- Pest Control
- Animal Health
- Parking Enforcement
- Road Safety
- Emergency planning
- Non-Attendance at school
- Benefit Fraud
- Drug and Alcohol Misuse
- Building Development Control

### **3. Environmental Protection and Enforcement**

- Car Parking Policy
- Highway Maintenance
- Grounds Maintenance
- Streetscape
- Street Cleansing
- Waste Collection and Disposal
- Recycling
- Green Energy and Carbon Reduction
- Public Rights of Way
- Fleet Management
- Farms
- Gardens
- Greenspace/Countryside

### **4. Resilient Local Communities**

- Delivery of locally based services
- Community Safety
- Revenues and Benefits
- Credit Unions
- Customer Service Centres and public access
- Customer Insight
- Consultation and Opinion Surveys
- Citizens' Panel
- Libraries
- Community Centres
- Bereavement Services
- Local Area partnerships
- Links with Town and Parish Councils
- Housing Landlord Services
- Private Sector Landlord
- Local Streetscape
- Community Transport
- Home to School Transport
- Passenger Transport

- Allotments

- 3.2 Within the following areas, the Director of Economic Growth and Capacity is empowered to operate the services of this Directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including but not limited to the following:

### **PROPER OFFICER**

- 3.3 To act as Proper Officer under Section 1 of the Countryside and Rights of Way Act 2000 relating to the Access to the Countryside (Maps in Draft Form) England Regulations

### **Economic Growth and Prosperity**

#### **Development Management and Building Control**

- 3.4 Apart from matters reserved to the Strategic Planning Board and Planning Committees, to exercise and make decisions in respect of all those Council functions set out in the Local Authorities (Functions & Responsibilities (England) Regulations 2000 which relate to town & country planning and development control, including planning applications, permitted development, the protection of important hedgerows, the preservation of trees and the regulation of high hedges.

Note: Development control functions include decisions regarding planning applications, permitted development, certificates of lawful use and development, enforcement, listed buildings and conservation areas. These planning functions are to be construed purposively and broadly, to include anything which facilitates or is incidental to them and will also include power to impose conditions, limitations or other restrictions or to determine terms to which approvals are subject, and to modify, vary or revoke approvals

- 3.5 To exercise all the powers and duties in relation to Building Control under the Building Act 1984 and related legislation and under Building Regulations, including but not limited to the determination of plans and applications, dealing with dangerous structures and all enforcement under the Act and Regulations
- 3.6 To vary the Standard Fee Scales of the Local Government Association Model Scheme by **up to** plus or minus 10%
- 3.7 To exercise all powers and duties relating to Local Land Charges
- 3.8 To act as Proper Officer in respect of the Ordnance Survey under Section 191 of the Local Government Act 1972

- 3.9 To take all action to ensure dangerous trees are removed or made safe or to ensure that they are made safe or removed and to reclaim the costs under the Local Government (Miscellaneous Provisions) Act 1976

Land and Property Acquisition Disposal and Management

- 3.10 To produce for Cabinet approval and implement the Corporate Asset Management Plan.
- 3.11 To make all delegated decisions in accordance with the Corporate Asset Management Plan
- 3.12 To manage the Council's Estate within approved budgets and in accordance with the medium term financial strategy (including but not limited to the development and appropriation of land and buildings, maintenance, repair and demolition, the granting or taking of assignments, surrender or termination of leases, tenancies, granting of leases up to 7 years, licences, easements, way leaves, variations of rent, enforcement of conditions or covenants in any agreement, the collection of rents and service of all notices).

This delegation is subject to

- Prior notification to ward councillors in respect of all management decisions which affect the external appearance of land or property or which involve a change of use and where there is objection from Ward Members(s), the approval of the Portfolio Holder must be obtained.
  - the requirement in the Contract Procedure Rules that the approval of the Chief Operating Officer must be obtained for all agreements which may involve a leasing charge
- 3.13 Subject to prior notification to the Chief Operating Officer (in respect of sales) and prior approval of the Chief Operating Officer (in respect of leases), to accept any offer or tender and agree the disposal of any interest in land or property, provided the Director of Economic Growth and Prosperity is of the opinion that it is the best consideration that can reasonably be obtained:
- In consultation with the Chief Operating Officer and after having notified the Portfolio Holder where the offer or tender does not exceed £200,000
  - With the approval of the Portfolio Holder and in consultation with the Chief Operating Officer where the offer or tender is between £200,000 and £500,000

Note: a disposal includes the disposal of a lease for land and premises of 7 years or more

**Note: The Portfolio Holder must be notified of the intent to dispose of any land or building, prior to disposal.**

- 3.14 To authorise the acquisition of an interest in any land or property (including under the Land Compensation Act 1973)
  - Where the consideration or compensation does not exceed £200,000, in consultation with the Chief Operating Officer and after having notified the Portfolio Holder
  - With the approval of the Portfolio Holder and in consultation with the Chief Operating Officer where the consideration of compensation is between £200,000 and £500,000
- 3.15 To take all actions under the Land Compensation Act 1973 including the payment of necessary compensation for claims
- 3.16 To establish and maintain a corporate database of the Council's land and buildings and to perform any responsibilities placed on the Council under the Local Government Planning and Land Act 1980, and to ensure the publication of details of the Council's interests in land.
- 3.17 To take action with regard to rating issues, including the conduct of appeals.
- 3.18 With the agreement of the Portfolio Holder, and subject to notification to Ward Members, to take decisions on applications by electricity, gas, water, telephone, broadcasting or cable companies to place any apparatus in , on, over or under any land or building owned by the Council
- 3.19 With the agreement of the Portfolio Holder to approve or refuse each application for release from restrictive covenants, to negotiate compensation payable to the Council and complete approved releases
- 3.20 To enter into property investments, management and development partnerships, and such contracts as accord with the Asset Management Plan after having notified the Portfolio Holder
- 3.21 To authorise and complete the transfer of freehold land at nil value for education purposes, where it is a statutory requirement to do so.
- 3.22 To authorise deeds of rectification with Housing Associations
- 3.23 To manage the Farms estate, serve all statutory notices, to negotiate and approve all matters and grant all consents required in order to do so provided that investment in improvements to farms will not exceed £20,000

## Tatton Park

- 3.24 To be responsible for all matters relating to the day to day management of Tatton Park, except
- alteration of admission charges and
  - permanent changes to opening hours
- which must only be with Portfolio Holder approval

## Markets

- 3.25 To manage the Council's markets, including:-
- To determine applications for and to let market stalls and to grant leave of absence to market traders.
  - To determine and apply the Market Rules and Regulations.
  - To allocate market stalls to charities and local fund raising organisations without charge.

## Commons

- 3.26 To maintain the Register of Commons

## Sports and leisure Facilities

- 3.37 To manage all Council sports and leisure facilities for public use, including caravan parks and allotments including
- Temporary **changes to the** opening and closing times **of a facility** (~~note: except that~~ permanent **changes to** opening and closing times shall be a decision of the Portfolio Holder)
  - Reviewing delivery models and implementing solutions relevant to individual communities **except that permanent changes shall be the decision of the relevant Portfolio Holder**
  - Promotion of sporting activity in the community
  - Promotion of customer care and equality of access

## Public Protection and Enforcement

- 3.38 To enforce all functions of the 'local housing authority'
- 3.39 **Subject to notification of Ward members** to licence
- the use of land as a caravan site and the use of moveable dwellings and camping sites
  - Pleasure boats and pleasure vessels
  - Premises for the breeding of dogs

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- Pet shops and animal boarding establishments
- Zoos and dangerous wild animals
- Motor salvage operators

### 3.40 To register

- Animal trainers and exhibitors
- Fishing vessels on board which shrimps and molluscs are cooked
- Auction and wholesale markets
- Premises for the preparation and sale of food
- Premises for acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing, micropigmentation and electrolysis

### 3.41 To grant consent for the operation of a loudspeaker **subject to approval of the Portfolio Holder**

### 3.42 To approve

- meat product premises and premises for the production of minced meat or meat preparations
- Dairy establishments, fish products premises and dispatch or purification centres
- Factory vessels and fishery product establishments

### 3.43 To undertake all functions under the Scrap Metal Dealers Act 1964 (as amended) and to take all enforcement action under the Act

### 3.44 To carry out all enforcement under the Health Act 2006 and regulations made under it

### 3.45 To carry out all functions relating to health and safety at work (to the extent that those functions are discharged otherwise than in the authority's capacity as an employer)

### 3.46 To undertake all the Authority's functions in respect of animal health

### 3.47 To licence hackney carriages, private hire vehicles and drivers and operators licences and to suspend such licences, unless

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- A hackney carriage or private hire vehicle does not meet the Authority's vehicle conditions or does not pass the vehicle inspection
  - An applicant for an operator's licence does not meet the Authority's requirements
  - An applicant for a hackney carriage or private hire driver's licence does not meet the Authority's requirements
- 3.48 To licence any charitable collections unless it is an application for a waiver of the Authority's street collection regulations (other than in respect of processions)
- 3.49 To renew, transfer or vary licences for sex establishments where
- there has been no material change to the character of the relevant locality or to the use to which any premises in the vicinity are put or to the layout, character or condition of the premises in respect of which the application is made; and
  - no objections have been received, or those that have been received have been withdrawn.
- 3.50 To issue street trading consents where no representations have been received or those that have been received have been withdrawn
- 3.51 To licence performances of hypnotism
- 3.52 To exercise licensing functions under the Licensing Act 2003 and the Gambling Act 2005 except:
- The determination of the 3 year statement of principles under the 2005 Act and the 5 year statement of licensing policy under the 2003 Act
  - A decision not to licence casinos under the 2005 Act
  - Where relevant representations have been received and are not withdrawn (with the exception of applications for minor variations under Sections 41A-C or 86A-C of the 2003 Act
  - The determination of review applications under Section 52 and 53C of the 2003 Act or Section 201 of the 2005 Act and determination of interim steps pending summary review under Sections 53A(2) and 53B of the 2003 Act
  - The decision to object when the authority is a consultee under the 2003 or 2005 Act



- Consideration of representations in relation to the proposed rejection of a club gaming permit or club machine permit under Schedule 12 of the 2005 Act
- The decision to give a counter notice to a temporary use notice under Section 224 of the 2005 Act
- The decision to make an order disapplying section 279 or 282(1) of the 2005 Act where representations have been made by the licensee
- The decision to revoke a personal licence where convictions come to light after grant or renewal under section 124 of the 2003 Act
- The decision to set fees under the 2005 or the 2003 Act

Note: The power to institute criminal proceedings under the 2003 or 2005 Acts lies with the Head of legal Services and Monitoring Officer

- 3.53 To undertake or appoint to the role of the Authority's Chief Inspector of Weights and Measures under Section 72 of the Weights and Measures Act 1985.
- 3.54 To appoint and authorise Officers of the Authority (employees or other persons as permitted by law) to act as duly authorised persons, Proper Officers, inspectors, or similar (howsoever statutorily described) to discharge the statutory functions devolving upon the Authority under the legislation listed in the Appendix to this Section including but not limited to the functions of enforcement, inspection, or any associated action or granting, amending, varying, refusing, revoking, suspending or transferring any licences, approvals or consents .
- 3.55 To amend the functions listed in the Appendix to this section (and any associated Officer authorisations) in accordance with legislation from time to time in force in respect of functions which the authority is obliged by legislation to discharge (mandatory functions)

### **Environmental Protection and Enforcement**

- 3.56 To discharge the operational day to day functions of the Authority in respect of the maintenance and improvement of highways and street management including but not limited to the following in this Highways and Transport section
- 3.57 To grant consents and impose requirements in connection with works in highways or adjacent premises.

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- 3.58 To determine applications for the placing of plant, structures, trees and equipment in, over or under highways or highway land, except that applications from Town and Parish Councils, which are officers are minded to refuse, must be determined by the Portfolio Holder.
- 3.59 To construct carriageway crossings over footways and verges, erect fences, boundary posts, cattle grids and carry out works for the drainage of highways.
- 3.60 To exercise the Authority's responsibilities under the New Road and Street Works Act 1991 and, where appropriate, waive charges
- 3.61 Authorise urgent repair of private streets under Section 230 of the Highways Act 1980, pass exemption resolutions and give exemption notices on behalf of the Street Works Authority under Section 219 of the Highways Act 1980.
- 3.62 Authorise minor improvements to roads including grass verges, street furniture etc not exceeding £30,000 for which provision has been made in the budget and capital programme.
- 3.63 Set charges for work and maintenance carried out by the Authority for which the costs are to be met by third parties.
- 3.64 Authorise the installation of sound insulation.
- 3.65 Appoint safety supervisors.
- 3.66 Make observations on planning applications consultations.
- 3.67 Take traffic censuses.
- 3.68 On the advice of the Assets Manager or District Valuer, to settle claims for borehole damage up to £1,500.
- 3.69 In consultation with the Portfolio Holder **and subject also to notification to Ward members**, to authorise all steps: (a) relating to permanent traffic regulation orders (including in respect of public rights of way), experimental orders, parking (except imposing or varying of any charges for car parking), alley-gating, stopping up and diversion of highway; and school and controlled crossings; under the Road Traffic Regulation Act 1984 and Highways Act 1980
- 3.70 To authorise all steps relating to temporary road traffic regulation orders under the Road Traffic Regulation Act 1984 and all orders under section 21 of the Town Police Clauses Act 1847.
- 3.71 Determine the manner in which the requirements of Schedule 14 to the Highways Act 1980 shall be carried out.

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- 3.72 Take emergency measures to protect persons and property from escapes of water from reservoirs.
- 3.73 Grant licences under Sections 142, 176, 177 and 181 of the Highways Act 1980.
- 3.74 To exercise powers and duties under Part VIIA of the Highways Act 1980
- 3.75 To exercise powers and duties under the Traffic Management Act 2004
- 3.76 To accept land for road improvements by dedication subject to the total consideration not exceeding £30,000.
- 3.77 To enter into agreements for the construction and adoption of estate roads.
- 3.78 To manage the Highways Services Contract
- 3.79 To take all decisions and actions in respect of nameplates and of street naming/renaming and numbering/renumbering provided it is within policy
- 3.80 To take action to make safe or remove dangerous trees overhanging or adjoining the highway or to ensure such trees are made safe or removed and to reclaim the costs
- 3.81 To manage the strategic needs of the highways network in consultation with the appropriate Portfolio Holder, with regard to securing sustainable growth and regional connectivity
- 3.82 To manage the following functions:-
- Tendering, applications to Traffic Commissioners and other relevant functions under the Transport Act 1985.
  - Negotiations in respect of terms with service operators in respect of concessionary fare/travel and dial-a-ride schemes, however agreement of terms shall be in consultation with Portfolio Holder
  - organisation of (special and non-special) school transport services, including the issue of scholars' passes, and Social Services transport services, in consultation with the relevant Portfolio Holder, in accordance with the Council's policy on school transport.
  - issuing of minibus permits under the Public Passenger Vehicles Act 1981.
  - administration of Car Contract Hire Schemes.

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- Management of the client side of vehicle maintenance contracts under the Local Government Act 1988.
  - Organisation of School Crossing Patrols, except that a decision to create or remove a School Crossing Patrol lies with the Portfolio Holder
  - holding of Operators Licence(s) on behalf of the Authority and all associated functions and responsibilities.
- 3.83 To exercise all powers in relation to public rights of way (includes footpaths, Bridleways, Restricted Byways and Byways Open to all Traffic and any other such ways) and to discharge the functions under the statutory provisions listed in the Appendix in relation to public rights of way PROVIDED THAT the following delegations shall be subject to consultation with the Portfolio Holder and with ward members:
- Granting permission for provision of services, amenities, recreation and refreshment facilities on public paths (Section 115A – 115K of the Highways Act 1980 and
  - Authorising the use of footpaths and bridleways for motor vehicles and cycle tracks under Section 33 of the Road Traffic Regulation Act 1988
- 3.84 To make temporary diversion orders for footpaths
- 3.85 To serve notices to require the removal of obstructions from public rights of way, the restoration of public rights of way following ploughing, cropping or other disturbances and the maintenance of stiles, gates or other structures across public rights of way.
- 3.86 To grant permission to extend the period of restoration following disturbance of the surface of a right of way and to grant orders that the surface of a right of way may be disturbed by excavation or operations.
- 3.87 To authorise the erection of stiles and gates across any public right of way.
- 3.88 Under the Countryside and Rights of Way Act 2000:
- To appoint wardens under section 18
  - To erect notices under section 19
  - To enter into agreements with landowners to carry out works and to carry out works in default under sections 35 and 36
  - To give notice to an owner of land requiring access under section 37
- 3.89 To manage the Council's vehicle fleet and to maintain, acquire and dispose of vehicles

### **Car Parking services**

3.90 To maintain and manage the Council's car parks and in consultation with the Portfolio Holder to take all steps to advertise and make, vary or revoke traffic regulation orders in respect of car parks under the Road Traffic Regulation Act 1984, except imposing or varying any charges for car parking

### **Streets and Open Spaces**

3.91 To be responsible for all matters relating to the management of Greenspaces (Parks) in accordance with all service standards and policies approved by the Council or Cabinet

### **Waste management**

3.92 To discharge the functions of the authority relating to waste, waste collection and waste disposal and to generally manage the refuse collection, disposal and recycling system of the authority including but not limited to:-

- Taking any action including enforcement action under the Refuse Collection (Amenity) Act 1978; the Removal and Disposal of Vehicle Regulations 1986; the Environmental Protection Act 1990 and the Controlled Waste (England and Wales) Regulations 2012
- Functions relating to the provision of litter/dustbins and wheeled bins including functions relating to the recovery of charges, expenses and fines

### **Resilient Local Communities**

3.93 To exercise functions in relation to the general management and operation of the Authority's burial grounds, cemeteries and crematoriums including but not limited to:-

- The grant of exclusive rights of burial under Section 2 of the Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970.
- Determine licence conditions and operating licensing arrangements of memorial stonemasons.

3.94 To be responsible for the libraries services including

- Temporary changes to the opening and closing times of the library and information points except that permanent changes shall be the decision of the relevant Portfolio Holder;

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- Temporary establishment and variation of mobile library schedules except that permanent changes shall be the decision of the relevant Portfolio Holder;
  - reviewing delivery models and implementing solutions relevant to individual communities except that permanent changes shall be the decision of the relevant Portfolio Holder
  - to promote cultural activities in libraries and other locations
  - To promote customer care and equality of access
- 3.95 To receive and determine applications for Housing Benefit including rent restrictions, rebates, allowances, backdating requests and overpayment recovery and otherwise exercising all powers and responsibilities of the Authority under legislation relating to Housing Benefit

### **Housing**

- 3.96 To administer all housing strategies and policies.
- 3.97 To advise on housing and energy conservation matters, including administering a Housing Advice Service
- 3.98 To maintain the Housing Waiting List and to make nominations to Registered Providers of Social Housing in accordance with the Authority's Allocations Policy
- 3.99 To work with other housing providers to meet the housing needs of the Borough
- 3.100 To deal with all matters in respect of the Borough's Registered Providers of social housing
- 3.101 To undertake all functions under the Housing Act 2004 in respect of assessing and reviewing housing conditions and enforcing housing standards including inspection and the power to enter premises and carry out works
- 3.102 To serve notices pursuant to the following legislation:
- Environmental Protection Act 1990
  - Housing Act 1985
  - Local Government (Miscellaneous Provisions) Act 1982
  - Prevention of Damage by Pests Act 1949
  - Public Health Acts 1936 and 1961
  - Protection from Eviction Act 1977

#### **4.0 DIRECTOR OF CHILDREN'S SERVICES**

- 4.1 The Director of Children's Services has overall responsibility for the operational management of the Children's Services Directorate and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to provide the services for which this directorate is responsible. It comprises the following main functions:-

##### **1. Children's Services**

- Education Services, including improvements and standards, school funding, school admissions and school transport
- Provision for children outside mainstream education
- Children's Social Care
- Engagement of young people
- Children's Health Services
- Inter-Agency Co-operation
- Corporate parent for looked after children
- Services for children with disabilities and special educational needs

##### **2. Early intervention and prevention**

- Assessment and Care management of Vulnerable children
- Child Protection
- Children in Need
- Adoption and Fostering
- Looked after Children
- Residential Children's Homes
- Care Planning and Review
- Out of hours response (Children and Adults)
- "Front Door" Access to Social Care (Children and Adults)
- Sexual Exploitation
- Children missing from home
- Education Welfare
- Children's Centres and Child Development Centres
- Early Years Provision and Childcare
- Health Prevention
- Targeted Youth Work
- Information advice and Signposting
- Early help Strategy
- Family Support
- Childcare and early education provision
- Drug and alcohol misuse – prevention services

- 4.2 Within the following areas, the Director of Children's Services is empowered to operate the services of the directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including, but not limited to the following in this section:

- 4.3 To provide a professional focus and lead for children's and family services ensuring that the needs of children, young people and families are met in the locality:
- To be professionally accountable for the effectiveness, availability and value for money of all local authority children's services;
  - To perform a leadership role to secure any necessary changes to culture and practice, so that services are organised around children and young people's needs; and
  - To build and lead effective partnerships with and between those local bodies who also provide children's services, in order to focus resources jointly on improving outcomes for children and young people.
- 4.4 To discharge Children's Services functions in the following areas:
- Education services: the Authority's functions in its capacity as a local authority under the Education Acts, except those certain functions relating to further education, higher education and adult education.
  - Children's social care: the authority's social services functions within the meaning of the Local Authorities Social Services Act 1970 insofar as they relate to children and young persons, and the local authority's functions for children and young people leaving care.
  - Safeguarding: The Safeguarding and welfare of children
  - Health services: any health related functions exercised on behalf of an NHS body, insofar as they relate to children.
  - Inter-agency co-operation. The functions conferred on the authority under the Children Act 2004, in particular building and leading the arrangements for inter-agency co-operation and safeguarding.
  - Early Childhood Services. Ensuring the wellbeing of young children in the Authority's area under the Childcare Act 2006
  - Early intervention and prevention: Ensuring service intervenes early to prevent children and young people becoming vulnerable
- 4.5 To be responsible for all other functions conferred on Children Services Authorities under the Children Act 2004 and by any subsequent legislation or Regulations.



- 4.6 To observe all policy decisions taken by the Council and its relevant bodies and to exercise all functions of a "Director of Children's Services" specified in relevant legislation and Government Guidance, (such power, alternatively, to apply to any duly nominated officer in respect of Children's Services).
- 4.7 Licensing the Employment of Children
- 4.8 Bring forward to the Portfolio Holder/ Cabinet as appropriate strategic plans and policies as follows:
- to develop partnership and commissioning arrangements to ensure the provision of children's services.
  - To implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of the early years and related services
  - To implement all necessary decisions, including the allocation of resources within approved estimates, so as to maintain the operation, effectiveness and quality of post early years children's education and related services
  - In relation to persons under 25 years of age, to bring forward proposals and implement all necessary decisions including the allocation of resources within approved estimates, so as to maintain the operation and effectiveness of children services
  - To institute and defend proceedings in relation to the care of children, the exercise of parental responsibility, provision of secure accommodation and wardship proceedings and to intervene, where appropriate, in matrimonial, guardianship and special guardianship proceedings or any other proceedings pursuant to its functions relating to children and young persons, and to undertake the functions of the Authority as an adoption and fostering agency.
  - To ensure the provision and quality of statutory youth and related Services, and the development of associated strategic plans and partnership arrangements for those services.

## **5.0 DIRECTOR OF ADULT SOCIAL CARE AND INDEPENDENT LIVING**

- 5.1 The Director of Adult Social Care and Independent Living has overall responsibility for the operational management of the Adult Services Directorate and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to provide the services for

which this directorate is responsible. It comprises the following main functions:-

**1. Adult Social care and Independent Living**

- Provision of Adult Social Care
- SEN Assessment, Educational Psychology, Sensory Support, Autism
- People with Disabilities
- Housing Options and Homelessness
- Private Sector Landlords
- Supported Housing Strategy
- Medical Needs Team
- Respite Provision
- Reablement
- Intermediate Care
- Adult Day Care Provision
- Community Support Networks
- Supported Living Networks
- Supported Employment and occupational opportunities
- Virtual School
- Telecare/Assistive Technology
- Occupational Therapy
- Community Equipment
- Home Improvement Agency
- Leaving Care
- Assessment and Care Management Services (including Adult Safeguarding)
- Hospital Discharge
- Equipment Aids and Adaptations (including DFG allocation)
- Carers support
- Domestic Violence
- Community and Adult mental health

5.2 Within the following areas, the Director of Adult Social Care and Independent Living is empowered to operate the services of the directorate and, except where powers, duties and functions are delegated elsewhere by the Council, to exercise all powers, duties and functions, including, but not limited to the following in this section:

5.3 To provide a professional focus and lead for adult and social care services, ensuring that the social care needs of the local community are met. The Director has seven key roles in this regard:

- Professional leadership, including workforce planning;
- Safeguarding and welfare of vulnerable adults
- Leading the implementation of standards;
- Managing cultural change

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- Promoting local access and ownership and driving partnership working;
  - Delivering an integrated whole systems approach to supporting communities; and
  - Promoting social inclusion and wellbeing.
- 5.4 To exercise the powers and duties of the Authority under the enactments listed in Schedule 1 of the Local Authority Social Services Act 1970 (excluding Children and Young Persons).
- 5.5 To apply for orders of receivership under the legislation relating to mental health and for grants of representation in respect of the estates in cases of intestacy arising under the appropriate provisions of the National Assistance Act 1948, non-recoverable expenses to be defrayed by the Authority.
- 5.6 To authorise the removal of parts of the body of a deceased resident in accordance with the wish expressed by the resident during his/her lifetime.
- 5.7 On terms approved by the Chief operating Officer and the head of legal Services and Monitoring Officer, to authorise adaptations to property and the provision of assistance and aids in accordance with the Chronically Sick and Disabled Persons' Act 1970
- 5.8 Act as trustee or appointee for the assets of service users for whom the Authority has a statutory responsibility.
- 5.9 Exercise powers to purchase domiciliary, residential and nursing home services vested in the Authority under the National Assistance Act 1948 as amended by subsequent legislation.
- 5.10 To exercise the powers and duties of the Social Services Authority under the legislative provisions relating to mental health, including those relating to Guardianship and the institution of Court proceedings.
- 5.11 To award and pay adaptation grants and loans pursuant to the Housing Grants Construction and Regeneration Act 1996 and within the Council's policies
- 5.12 To administer the Authority's responsibilities for the homeless including the commissioning of hostels and accommodation.

## **6.0 CHIEF OPERATING OFFICER**

6.1 The Chief Operating Officer is the Council's "Section 151 Officer", appointed by Council and is the financial adviser to the Council, the Cabinet and Officers. The post has overall responsibility for operational management of the Commissioning Support functions and for bringing forward such strategic plans and policies, and implementing all necessary decisions including the allocation of resources within approved estimates, as are necessary to provide the services for which the directorate is responsible. It comprises the following main functions:-

### **1. Role of "Section 151 Officer"**

### **2. Commercial Strategy, Business Innovation and Performance**

- Corporate Policy and Business Strategy
- Business Support Services
- Business intelligence and performance
- Business Improvement and Innovation
- Commercial Strategy
- Internal Audit
- Risk management
- Complaints
- Strategic Partnerships
- Communication and Marketing
- ICT infrastructure
- Procurement

### **3. Finance**

- Pensions
- Insurances
- Accountancy

### **4. Organisational Development**

- Staff training and Development
- Workforce Planning
- Organisational Change and Support
- Internal Communications
- Talent Management and Succession Planning
- Staff Engagement
- HR Strategy/Policy
- Industrial Relations
- Occupational health
- Member Training and Development
- Organisational Culture

### **5. Democratic Decision making and Governance**

- New Local Governance Arrangements
- Member Training and Development

- Registration Services
- Election Services
- Community Governance and Boundary Reviews
- Committee Servicing
- Member attendance on External Bodies
- Mayoral Support and Civic Functions
- Executive Office Support
- Support to the Lord Lieutenant
- Support for Sub-Regional Committees/Boards
- Administrative Support for School exclusion and other appeals
- Cross party Liaison support

## **ROLE OF SECTION 151 OFFICER**

6.2 The Chief Operating Officer is:-

- The financial adviser to the Council, the Cabinet and Officers
- The Authority's 'responsible financial Officer' under the Accounts and Audit Regulations
- Responsible for the proper administration of the Authority's affairs as specified in, and undertake the duties required by, Section 151 of the Local Government Act 1972, Section 114 of the Local Government Finance Act 1988, the Local Government and Housing Act 1989, the Local Government Act 2003, and all other relevant legislation.

6.3 The Chief Operating Officer shall act as the Authority's Proper Officer or appointed officer in respect of the following functions:

- Opening accounts to inspection under Section 228(3) of the Local Government Act 1972
- Officer responsible as regard reports under Section 114 of the Local Government Finance Act 1988
- Receipt of money due from officers (Section 115(2) of the Local Government Act 1972
- Declarations and Certificates with regard to securities under Section 146 of the Local Government Act 1972
- The Authority's Money Laundering Reporting Officer (Section A21 and 22 of the Finance Procedure Rules

## **Commercial Strategy Business Innovation and Performance**

- 6.4 To be responsible for benchmarking and monitoring the performance of the Council, for promoting the performance management framework and reporting performance issues to relevant committees and cabinet/council
- 6.5 To undertake the communications, marketing and media functions of the authority and promote good public relations
- 6.6 To promote effective working through business improvement initiatives as relevant including recommendations on targets, service standards, performance indicators and consultation
- 6.7 To be responsible for the authority's risk management approach
- 6.8 To be responsible for the research and consultation function including the census and corporate public feedback mechanisms
- 6.9 To be responsible for the corporate customer services function and promote a culture of customer service and equality in service delivery, access and design.
- 6.10 To develop corporate policy for Council/Cabinet approval and to ensure implementation
- 6.11 To develop and implement the authority's approach to local area working with partners to ensure co-ordinated delivery of services to the community
- 6.13 To act as lead officer on behalf of the authority in relation to the Data Protection and Freedom of Information legislation, with an overall presumption of openness and transparency and that publication is the norm

## **Finance**

The Chief Operating Officer, in accordance with the Finance Procedure Rules, will:-

- Carry out the functions and responsibilities which are detailed in the Finance Procedure Rules
- Secure effective treasury management, including taking all action necessary in relation to all debts, payment of accounts, loans (including guarantees and indemnities), grants, advances, investments, financing and banking generally

## Appendix 1

- Take all action necessary to ensure the safeguarding of assets by maintaining and administering appropriate insurance and approving requests to postpone legal charges
- To take all necessary action in respect of the Authority's role in relation to the administration and operation of the Cheshire Pension Fund.
- To make recommendations to the Council on Council Tax requirements, on the Council tax base and to administer and manage generally all matters relating to Council Tax, Non Domestic Rates, Community Charge and General Rates including the awarding of discounts, relief, and exemptions and the levying, collection, recovery, and disbursement of all sums due to the Authority in respect of the same in accordance with all governing Regulations.
- To negotiate, enter into arrangements and act generally on behalf of the Authority in respect of continuing financial matters arising from arrangements and obligations existing between the former Cheshire County and six District Councils.

**Note:** The Chief Operating Officer is not authorised to write off debt, which must be approved by the Portfolio Holder or Cabinet.

### Procurement

- 6.14 Provided the limits are not exceeded in respect of European Tendering Rules, within the Contract Procedure Rules, to agree in consultation with Corporate Leadership Board, the Chief Executive and the Head of legal Services and Monitoring Officer, circumstances where normal procurement requirements and or requirements for quotations or tenders should be waived.

### Organisational Development

- 6.15 Monitoring and reviewing the Authority's management and general sufficiency of staffing arrangements and reporting quarterly to the **Council Staffing Committee** on the effectiveness of the arrangements
- 6.16 To recommend to Council the development of policies on the full range of Human Resources and Organisational Development issues, after appropriate consultation with Members
- 6.17 To take responsibility for the health and safety of the Authority's employees

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- 6.18 To submit Codes of Conduct in support of Human Resources, to the Constitution Committee for approval
- 6.19 To undertake the effective implementation and maintenance of Equal Opportunities in Employment Policy
- 6.20 To submit the Management Structure of each Directorate below Head of Service level and for all posts at Grade 10 and above, for approval by the Staffing Committee, and to produce departmental establishments and to monitor staff information reports against those establishments, reporting quarterly to the Staffing Committee.
- 6.21 To monitor developments relating to the Local Government Pensions Scheme and the Authority's Early Retirement Scheme (except where they are applied to individual employees), to implement mandatory changes and recommend policy changes as appropriate
- 6.22 In consultation with the Portfolio Holder and CLB, to determine annually the recruitment requirements for trainee positions at a level that can be met within budgetary provisions
- 6.23 To approve Job Descriptions/Person Specifications for all employees other than members of Corporate Leadership Board (CLB job descriptions and Person Specifications shall be approved by the Staffing Committee)
- 6.24 In consultation with the Chief Operating Officer to apply the approved early retirement /redundancy scheme in cases where the post is to be deleted EXCEPT that (a) decisions relating to redundancy may not be delegated by the Head of HR and OD under a local scheme of delegation and (b) decisions relating to redundancy of a post at Grade 15 and above shall be with the agreement of the relevant Portfolio Holder.
- 6.25 To determine honoraria in accordance with the NJC Scheme, reporting to Staffing Committee at the next available meeting
- 6.26 To determine the placement of staff to facilitate joint working with other organisations under sections 13(4) and (5) of the Local Government Act 2000 and to second staff from other organisations under Sections 111 and 113 of the Local Government Act 1972, and in particular, but not limited to, to second (and accept secondments of) staff to and from health bodies
- 6.27 To appoint and dismiss staff and take disciplinary or capability action against any member of staff, in accordance with the law and the Council's Policies and Procedures, including the Staff Employment Procedure Rules except:



- The above authorisation shall not apply in respect of the Head of paid Service and Statutory Chief Officers and
- The appointment of all CLB Members shall be the responsibility of Staffing Committee (this latter exception does not apply to dismissal, disciplinary or capability)

### **Democratic Services**

6.28 Perform all other functions of the Authority as set out in the Schedule to the Local Government (Committees and Political Groups) Regulations 1990

6.29 The Democratic and Registration Services Manager is authorised to:

- Exercise all functions under the Registration Service Act 1953 and to act as the Authority's Proper Officer in respect of the Registration of Births, Marriages and Deaths
- Determine applications for the approval of premises under the Marriage Act 1994
- Act as the Designated Scrutiny Officer under the Local Democracy Economic Development and Construction Act 2009

## **7.0 HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

7.1 The Head of Legal Services and Monitoring Officer is the Authority's Monitoring Officer, appointed by Council, and has overall responsibility for the operational management of the Legal Services Division and for bringing forward such strategic plans and policies, and implementing all necessary decisions including the allocation of resources within approved estimates, as are necessary to provide the services for which the directorate is responsible. It comprises the following main functions:-

### **1. Monitoring Officer Role**

### **2. Legal Services**

- Legal Services – Places
- Legal Services – Corporate
- Legal Services – Children and Adult Services

### **3. Democratic Services**

- Registrar of Births Deaths and Marriages
- Electoral Services
- Democratic Services

## **MONITORING OFFICER ROLE**

- 7.2 The Head of Legal and Monitoring Officer is the Authority's Monitoring Officer in accordance with Section 5 Local Government and Housing Act 1989 and is responsible for ensuring the lawfulness and fairness in decision making and matters relating to the conduct of elected Members
- 7.3 The Monitoring Officer will provide advice to ensure that decisions are taken on proper authority, by due process, and in accordance with the budget and policy framework.
- 7.4 The Monitoring Officer shall, where necessary, and in consultation with the Head of Paid Service and the Chief Operating Officer, report any proposal, decision or omission considered to be unlawful or to amount to maladministration to the Council or the Executive, as appropriate in accordance with Section 5 of the Local Government and Housing Act 1989 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 7.5 The Head of Legal and Democratic Services and Monitoring Officer will act as the Authority's Proper Officer under the following provisions of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000:
- Convening Council meeting to fill casual vacancy in office of chairman (Section 88(2))
  - Receipt of notice of interests in contracts or proposed contracts (Section 96(1))
  - Recording of disclosures of interests made under Section 94 and of notices under Section 96(1)
  - Supply of documents to the press (Section 100B(7)(c)); written summary of exempt proceedings (Section 100C(2); compilation of list of and inspection of background papers (Section 100D(1)(a); and exclusion of document containing exempt information (Section 100F(2))
  - Appearance of Council in legal proceedings (Section 223 (1))
  - Deposit of documents (Section 225)
  - Certification of photographic copies of documents (Section 229)
  - Authentication of documents (Section 234(1) and (2))
  - Certification of Byelaws (Section 238)

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- Signature of summons to council meetings and receipt of notices to which summons to meeting is to be sent (Schedule 12 para 4)
- Certification of resolutions (Schedule 14 para 25(7))
- Receipt of Notices relating to political groups (Section 15 – 17 of the Local Government and Housing Act 1989)

Receipt of notice of disclosable pecuniary interests under the Localism Act 2011

### Legal Services

7.6 The Head of Legal Services and Monitoring Officer is authorised to settle actual or potential uninsured claims or Local Government Ombudsman cases across all functions of the Council as follows:-

- authorise settlement of up to ~~£20,000~~, £5000 (which after settlement shall be reported to Cabinet)
- Authorise settlement above ~~£20,000~~ £5000 and below £50,000 in consultation with the Portfolio Holder and the Chief Operating Officer, (which after settlement shall be reported to Cabinet)
- Claims in excess of £50,000 require Cabinet approval

7.7 The Head of Legal Services and Monitoring Officer shall be authorised to:-

- Conduct and appear on behalf of the Authority in any legal proceedings authorised by or on behalf of the Authority before any court or tribunal and similarly defending the Authority where any proceedings are instituted against it and to take all other action (within such proceedings or otherwise) considered by him or her to be necessary to protect and/or further the Authority's interests.
- Institute legal proceedings for any offences under any local Byelaws or Orders in force within the Borough area
- Lodge objections to any proposal affecting Borough interests.
- Determine applications for the display of the crest or logo of the Authority.
- Take all action including the completion of agreements, the service of notices, giving of directions, obtaining or issuing

## Appendix 1

orders, authorising the execution of powers of entry, and the institution and defence of legal proceedings necessary or desirable to protect and advance the interests of or discharge the roles, functions and responsibilities of the Authority.

- To make discretionary payments under Land Compensation Act 1973 on the recommendation of the District Valuer
- In accordance with the Council's approved policy to monitor the integrity of the operation of the Regulation of Investigatory Powers Act 2000as follows:
  - Ensuring compliance with all relevant legislation and with the Codes of Practice.
  - Engagement with the Inspectors from the Office of the Surveillance Commissioner when they conduct their inspections, and, where necessary, oversight of the implementation of post-inspection action plans approved by the relevant oversight Commissioner.
  - Monitoring authorisations and conducting a quarterly review of applications, authorisations and refusals, and reviewing renewals and cancellations.
- Make Orders for the Temporary Closure of Highways and Regulation of Traffic
- To exercise the Authority's duties in respect of the provision of a Coroners Service

7.8 The Head of Legal Services and Monitoring Officer is empowered to authorise appropriately qualified employees or persons acting on behalf of the council:

- To appear in, and conduct legal proceedings in, any Court or Tribunal on behalf of the Authority;
- To prove debts owed to the Authority in bankruptcy and liquidation proceedings.

7.9 The Head of Legal Services and Monitoring Officer is authorised to:

- Make minor and consequential amendments to the constitution on account of drafting anomalies and authorised revisions, correcting any errors or omissions or otherwise giving effect to the intentions of the Council and shall subsequently notify the Chairman of the Constitution Committee.
- Receipt of notice of casual vacancy of Councillor (Section 80 (1) (b) of the Local Government Act

### **Designated Officer/Proper Officer**

7.10 The Head of Legal Services and Monitoring Officer has been appointed as the Designated Officer as follows:

- The Electoral Registration Officer for the registration of electors under Section 8 of the Representation of the People Act 1983
- The Returning Officer for the election of Councillors for the District and Parishes within the District under Section 35 of the 1983 Act
- The Acting Returning Officer at UK Parliamentary elections; the Local Returning Officer at European Parliamentary Elections and for the Police and Crime Commissioner Elections

And will act as the Proper Officer for all related functions and relevant legislation

### **8.0 DIRECTOR OF PUBLIC HEALTH**

The Director will have four key roles

- Health Improvement
- Health Protection
- Health Care, Commissioning and Service Planning
- Reduction of Health Inequalities

(The Scheme of Delegation for the Director of Public Health was approved by Council on 28<sup>th</sup> February 2013)

**APPENDIX**

<b>In respect of public rights of way (paragraph 4.93)</b>
Highways Act 1980 sections 31A; 115A to 115K; 118ZA; 118C; 119ZA;119C; 121B; 130; 130A; 130B; 135; 135B; 149; Schedule 12A
Wildlife and Countryside Act 1981 sections: 53B; 57A; 56
Road Traffic Regulation Act 1988: Section 33
<b>In respect of regulatory functions (trading standards and environmental health) (paragraph 4.54)</b>
Accommodation Agencies Act 1953
Administration of Justice Acts 1970 and 1985
Agriculture Acts 1947 and 1970
Agriculture(Miscellaneous Provisions) Act 1968
Agriculture(Safety, Health and Welfare Provisions) Act 1956
Agriculture Produce Acts 1928 and 1931
Agriculture Produce (Grading and Marketing) Act 1928
Animal Boarding Establishments Acts 1963 and 1970
Animal Health Acts 1971/1981 and 2002
Animal Health and Welfare Act 1984
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003
Breeding of Dogs Act 1973/91
Breeding and Sale of Dogs (Welfare) Act 1999
Building Act 1984
Burials Act 1857
Cancer Act 1939
Caravan Sites Act 1968
Caravan Sites and Control of Development Act 1960
Cheques Act 1992
Children and Young Persons Act 1933
Children and Young Persons (Protection from Tobacco) Act 1991
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Companies Act 1985
Companies (Consolidation (Consequential Provisions) Act 1985
Consumer Credit Act 1974
Consumer Protection Act 1974
Contracts (Rights of Third Parties) Act 1999
Control of Pollution (Amendment) Act 1989
Control of Pollution Act 1974
Copyright Designs and Patents Act 1988
County Courts Act 1984
Courts and Legal Services Act 1990
Crime and Disorder Act 1998
Criminal Attempts Act 1981
Criminal Damage Act 1971Criminal Justice Acts 1982/1988/1991/1993
Criminal Justice and Police act 2001

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Criminal justice and Public order Act 1994
Criminal law Act 1977
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Defective Premises Act 1972
Development of Tourism Act 1969
Dogs Act 1906
Dogs (Amendment) Act 1928
Dogs (Fouling of Land) Act 1996
Dogs (Protection of Livestock) Act 1953
Education Reform Act 1988
Energy Act 1976
Energy Conservation Act 1981
Enterprise Act 2002
Estate Agents Act 1979
Environment Act 1995
Environment and Safety Information Act 1988
Environmental Damage (Prevention and Remediation) Regulations 2009
Environmental Protection Act 1990
European Communities Act 1972
Explosives Act 1875
Factories Act 1961
Fair Trading Act 1973
Farm and Garden Chemicals Act 1967
Farriers (Registration) Act 1975
Fire Safety and Safety of Places of Sport Act 1987
Fireworks Act 2003
Food Act 1984
Food and Environment Protection Act 1985
Food Safety Act 1990
Forgery and Counterfeiting Act 1981
Fraud Act 2006
Guard Dogs Act 1975
Home Safety Act 1961
Hallmarking Act 1973
Health and Safety at Work Act 1974
Housing Act 2004
Indictable offences Act 1848
Intoxicating Substances (Supply) Act 1985
Land Drainage Act 1991
Law of Property (Miscellaneous Provisions) Act 1989
Legislative and Regulatory Reform Act 2006
Licensing Act 2003
Litter Act 1983
Local Government (Miscellaneous Provisions) Act 1976 and 1982
Local Government Acts 1972 and 1987
Local Government and Housing Act 1989
Malicious Communications Act 1988

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Medicines Act 1968
Misrepresentation Act 1967
Motor Cycle Noises Act 1987
Motor Vehicles (Safety Equipment for Children) Act 1991
National Assistance Act 1948
National Lottery Act 1993
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Olympic Symbol etc (Protection) Act 1995
Opticians Act 1989
Offensive Weapons Act 1996
Patents Designs and Marks Act 1986
Performing Animal (Regulation) Act 1925
Pesticides (Fees and Enforcement) Act 1989
Pesticides Act 1998
Pet Animals (Amendment) Act 1983
Pet Animals Act 1951
Petroleum (Consolidation ) Act 1928
Petroleum (Transfer of Licences) Act 1936
Poisons Act 1972
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Prices Act 1974 and 1975
Private Security Industry Act 2001
Private Water Supply Regulations 1991
Proceeds of Crime Act 1995
Property Misdemeanors Act 1991
Prosecution of Offences Act 1985
Protection of Animals Act 1911
Protection Against Cruel Tethering Act 1988
Protection from Harassment Act 1997
Protection of Children (Tobacco) Act 1986
Public Health (Control of Diseases ) Act 1984
Public Health (Infectious Disease) Regulations 1988
Public Health Acts 1936 and 1961
Refuse Disposal (Amenity) Act 1978
Registration Service Act 1953
Registered Designs Act 1949
Regulation of Investigatory Powers Act 2000
Rent Act 1965 and 1977
Riding Establishments Act 1964 and 1970
Rivers Prevention of Pollution Act 1961
Road Traffic Acts 1974/1988
Road Traffic (Foreign Vehicles) Act 1972
Road Traffic regulation Act 1984
Road traffic offenders Act 1988
Safety of Sports Grounds Act 1975



## Appendix 1

Sale and Supply of Goods Act 1994
Sale of Goods (Amendment) Act 1994/1995
Sale of Goods Act 1979
Solicitors Act 1974
Sunday Trading Act 1994
Supply of Goods and Services Act 1982
Tattooing and Minors Act 1969
Telecommunications Act 1984
Theft Acts 1969 and 1978
Timeshare Act 1992
Tobacco Advertising and Promotions Act 2002
Torts (Interference with Goods) Act 1977
Town Police Clauses Act 1847 and 89
Trade Descriptions Act 1968
Trade Marks Act 1994
Trade Representations Act 1972
Traffic Management Act 2004
Unfair Contract Terms Act 1977
Unsolicited Goods and Services Act 1971
Unsolicited Goods and Services (Amendment) Act 1975
Vagrancy Act 1824
Veterinary Surgeons Act 1966
Vehicles (Crime) Act 2001
Video Recordings Act 1984
Water Act 1989
Water Industry Act 1991
Water Supply (Water Quality) Regulations 2000
Water Resources Act 1963
Weeds Act 1959
Weights and Measures Act 1976 and 1985
Wildlife and Countryside Act 1981
Zoo Licensing Act 1981