

**Appendix 3 to Section 10 of Constitution**

**Officer Scheme of Delegations**

The purpose of this Section of the Constitution is to bring together delegations to Officers and roles and responsibilities of Officers.

**DELEGATION OF COUNCIL FUNCTIONS AND EXECUTIVE FUNCTIONS TO OFFICERS**

**1. INTRODUCTION**

**1.1 Scope**

1.1.1 This scheme sets out the extent to which the functions of the Council or the Executive are delegated to officers and should be interpreted widely rather than narrowly. It is divided into the following sub sections:

- (a) Introduction
- (b) General Delegation to all Heads of Service
- (c) Specific Delegation to all Heads of Service
- (d) Specific Delegation to Officers with Statutory Responsibilities

1.1.2 In this scheme 'officer' means the holder of any post named in this scheme as having delegated powers and duties.

1.1.3 In this scheme 'Heads of Service' means the Chief Executive, Corporate Director, Heads of Service and Programme Director.

**1.2 Exercise of Delegated Powers**

1.2.1 Functions in this section may be exercised by the nominated officer(s) and includes anything which facilitates, or is conducive or incidental to, the discharge of these functions, tasks or responsibilities.

1.2.2 Where an officer has been given delegated authority by this section they may authorise any member of their staff to act on their behalf.

1.2.3 An officer may refer a delegated matter to the Executive or the Council Meeting or to one of its Committees for decision rather than take the decision themselves.

1.2.4 When exercising delegated powers officers must always have regard to the following implications of the decision. When necessary, advice should be taken:-

- (a) financial
- (b) legal
- (c) human rights
- (d) human resources

- (e) environmental
  - (f) corporate social responsibility
  - (g) crime and disorder
  - (h) risks
  - (i) policy and performance
- 1.2.5 Before taking a decision under delegated powers, an officer will notify the relevant Executive member and Ward member(s) of any action which is likely to be contentious or politically sensitive.
- 1.2.6 Officers will keep members of the Executive informed of the work of their service area.
- 1.2.7 When exercising delegated powers officers will consult with staff in another service area if the decision is likely to impact on the work of that service area.
- 1.2.8 When exercising delegated powers an officer will always have regard to the requirements of the Constitution.
- 1.2.9 The Corporate Management Team may authorise one officer to exercise the delegated powers of another officer in the absence of the latter, or if the latter is unable to act.

### 1.3 **Overall Limitations**

- 1.3.1 This scheme does not delegate to an officer any matter which:
- (a) has been reserved to the Council Meeting
  - (b) has been reserved to any committee
  - (c) has been reserved to the Executive
  - (d) may not by law be delegated to an officer
- 1.3.2 In exercising delegated powers officers shall:
- (a) not go beyond the provision in the revenue or capital budgets for their service or agree individual items of expenditure or virement beyond that permitted by Financial Regulations
  - (b) have regard to any report by the Head of Paid Service or the Monitoring Officer under sections 4 and 5 of the Local Government and Housing Act 1989 or of the Chief Finance Officer under section 114 of the Local Government Finance Act 1988.
  - (c) maintain a full record of the exercise of those powers, including all relevant details, in accordance with any corporate guidance given by the Monitoring Officer.

- (d) have regard to any report from the Council's internal and external auditors in relation to a fundamental weakness in management and financial controls.

2. **GENERAL DELEGATION TO ALL HEADS OF SERVICE**

- 2.1 To take action as may in their opinion be necessary or appropriate in connection with:
  - 2.1.1 all operational management matters for those functions and service areas for which they have responsibility under this Constitution;
  - 2.1.2 persons and/or property for which they and their service has responsibility;
  - 2.1.3 the implementation of decisions properly authorised by the Council or a committee, the Executive or an individual member of the Executive or by an Officer acting under delegated powers;
  - 2.1.4 the performance of any action for which they are specified as responsible in any policy, procedure or other document approved or adopted by the Council Meeting or a committee, the Executive or an individual member of the Executive or by an Officer acting under delegated powers.
- 2.2 To serve a requisition for information about an interest in land using powers relevant to the operation of the service area.
- 2.3 To manage, direct and control all resources allocated to their service area in accordance with the Council's policies and procedures.
- 2.4 To co-ordinate and monitor work through approved plans and policies, ensuring compliance with targets and performance to the relevant committee.
- 2.5 To determine the level of charges for Council services in order to maximise income and in accordance with agreed charging policies.
- 2.6 To ensure compliance with and discharge of all relevant legislation, Acts of Parliament, orders, Regulations and directives and the Council's policies and procedures (including all enforcement matters).
- 2.7 To provide and submit a bid for resources in accordance with the approved budget process.
- 2.8 To support Councillors in their monitoring and community governance roles.
- 2.9 To recommend to the Monitoring Officer and / or the Deputy Monitoring Officer, the prosecution or instigation of any legal proceedings on behalf of the Council.
- 2.10 To issue licences and registrations relating to any of the approved functions.
- 2.11 To support the Executive in the development of the Council's Policy Framework.
- 2.12 To proactively implement the Council's equal opportunity policies and practices in employment and service delivery.

- 2.13 To ensure appropriate arrangements for regular consultation with Allerdale Borough Council citizens in order to develop understandings of service needs and priorities as the basis for planning provision and building democratic participation.
  - 2.14 To submit statutory plans and statutory responses to consultation documents to the relevant body where the deadline for submission occurs prior to the date of the relevant meeting. This should be undertaken in consultation with the relevant Portfolio Holder.
  - 2.15 In the absence of the Chief Executive and in accordance with an agreed rota, to undertake on his/her behalf such actions as are required to enable the Council to fulfil its functions
3. **SPECIFIC DELEGATIONS TO HEADS OF SERVICE**
- 3.1 **Chief Executive**
    - 3.1.1 To exercise the functions of the Head of Paid Service and in this role:-
      - (a) to exercise overall responsibility for corporate management and operational issues (including overall management responsibility for all staff);
      - (b) to give professional advice to all parties in the Council decision making process;
      - (c) to ensure that the Council has a system of record keeping for all Key Decisions; and
      - (d) to ensure that the Council achieves and delivers its objectives; and
      - (e) to represent the Authority on partnerships and external bodies (as required by statute or by the Authority).
    - 3.1.2 To co-ordinate, direct and monitor the Council's initiatives to achieve value for money in the delivery of its functions.
    - 3.1.3 To be responsible for performance review issues.
    - 3.1.4 To lead the Corporate and Senior Management Teams.
    - 3.1.5 To undertake responsibility for the Strategy, Policy and Performance team
    - 3.1.6 After consultation with the Leader of the Council, to authorise action and incur expenditure, where urgent action is needed to enable the Council to fulfil its functions subject to reporting thereon to the Council Meeting.
    - 3.1.7 To consider and report on any report of the Local Government Ombudsman and to decide on and implement the action to be taken.
    - 3.1.8 To undertake all activities in connection with the Council's Human Resources or civic/ceremonial function.
    - 3.1.9 (a) To determine all staff matters in accordance with the Officer Employment Rules and relevant Council policies. This includes

determining matters relating to structure (additions, reductions and other changes to the establishment), appointment, dismissal or discipline of staff, except in relation to those posts which are Chief Officers and Deputy Chief Officers under the Local Government and Housing Act 1989.

- (b) Where the decision of the Head of Paid Service taken under (a) above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the Executive, provided that the remit of the Executive shall be limited to decisions on financial matters only.
- (c) The Head of Paid Service may delegate the discharge of this function to another Officer.

3.1.10 To establish and maintain working relationships with employees and Trade Unions.

3.1.11 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer.

### 3.2 **Corporate Director**

3.2.1 To discharge the functions of the Chief Executive in the Chief Executive's absence.

3.2.2 To act as Returning Officer in local elections.

3.2.3 To undertake the duties of Electoral Registration Officer.

### 3.3 **Head of Community Services**

3.3.1 To exercise the Council's powers and functions in relation to street scene, parks and open spaces, grounds maintenance, contract services, waste management, recycling, sports development, locality management, cemeteries and bereavement services, museums arts and culture, gypsies and travellers and parking.

### 3.4 **Head of Place Development**

3.4.1 To exercise the Council's powers and duties in relation to planning, building control, markets, economic growth, town centre management, tourism development, corporate estate management and Housing.

3.4.2 To discharge the Council's development control and related functions except any matter reserved to the Development Panel including :

- (a) Any application or matter (except an application for prior approval) which is referred to the Development Panel by any Member of the Council within 21 days of the issue of the weekly list of planning applications.
- (b) All applications where the proposed decision of the Head of Service would, in his or her opinion, be contrary to the policies of the Council as expressed in the Development Plan and/or any emerging

plan approved by the Council for the purposes of development control decision making.

- (c) Any application submitted on any matter directly affecting or involving a Member or Officer of the Council where the Head of Service has been informed of the involvement
- (d) Matters which the Head of Service considers to raise issues of major importance or of wider interest or of an innovative or controversial nature and which Members will therefore wish to discuss.

3.4.3 Regarding Building Control, to be the Council's designated proper officer and discharge Building Control functions.

3.5 **Head of Financial Services**

3.5.1 To exercise corporate Council functions in relation to financial services, payroll and business continuity.

3.5.2 To sign Certificates to be issued under Section 2 and Section 3 of the Local Government (Contracts) Act 1997

3.5.3 To exercise the Council's powers and duties in relation to asset management services, public conveniences and coast protection and drainage and street naming and numbering.

3.6 **Head of Governance and Regulatory Services**

3.6.1 To exercise corporate Council functions in relation to legal services, democratic services, audit services and electoral services.

3.6.2 To exercise the Council's powers and duties in relation to Licensing and Land Charges, and to authorise enforcement action in relation to regulatory functions exercised.

3.6.3 To exercise the Council's powers and duties in relation to Assurance, Risk and Audit and Corporate Fraud.

3.6.4 To exercise corporate Council functions in relation to human resources and organisational development.

3.6.5 To exercise the Council's powers and duties in relation to environmental health, street trading, environmental protection and housing enforcement

3.7 **Head of Customer Operations and Transformation**

3.7.1 To exercise corporate Council functions in relation to transformation, customer operations and IT services.

3.7.2 To exercise the Council's powers and duties in relation to housing options, corporate health and safety, emergency planning and pest control.

3.8 **Head of Strategy, Policy and Performance**

- 3.8.1 To exercise corporate Council functions in relation to strategy and policy, including housing strategy, economic and business growth strategy, corporate improvement, performance, scrutiny, communications and marketing, community consultation and engagement.
- 3.8.2 To exercise the Council's powers and duties in relation to information governance, Freedom of Information and data protection.
- 3.8.3 To exercise the Council's powers and duties in relation to planning policy including the statutory development plan.

3.9 **Head of Programmes and Projects**

- 3.9.1 To exercise corporate Council functions in relation to the successful delivery and achievement of the desired outcomes and realisation of the expected benefits from the Council's programmes and projects.

3.10 **Programme Director**

- 3.10.1 To lead on the delivery of the Council's Maryport Delivery Plan ensuring that delivery is aligned to the strategic direction of the organisation and develop a housing company.

4. **SPECIFIC DELEGATIONS TO OFFICERS WITH STATUTORY RESPONSIBILITIES**

4.1 **Monitoring Officer and Head of Governance**

- 4.1.1 To act as the Council's Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- 4.1.2 Functions of the Monitoring Officer:
  - (a) Maintaining the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, officers and public.
  - (b) Ensuring lawfulness and fairness of decision making. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to Council or to the Executive in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
  - (c) Supporting the Standards Committee. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee and take such action as is delegated to him/her under the Council's Standards Arrangements.
  - (d) Proper officer for access to information. The Monitoring Officer will ensure that Executive decisions, together with the reasons for those

decisions and relevant officer reports and background papers are made publicly available as soon as possible.

- (e) Advising whether Executive decisions are within the Budget and Policy Framework. The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.
- (f) Providing advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors.
- (g) Restrictions on posts. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

4.1.3 All proper officer functions not allocated to other officers. Solicitor to the Council.

4.1.4 Authority to affix the Common Seal of the Council.

4.1.5 To execute any appropriate legal documents and to issue licences and to take all necessary action relating thereto arising out of the exercise of any function or the performance of any powers delegated to the Council.

4.1.6 To take action for the recovery of compensation for damage to any property belonging to the Council.

4.1.7 To institute proceedings for any offence (except where specifically delegated to a Committee or other officer) and to authorise officers to appear in proceedings under Section 223 of the Local Government Act 1972.

4.1.8 To institute, defend, participate or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests including the instruction of Counsel and the giving of undertakings on behalf of the Council, where the interests of the Council (whether on its own behalf or on behalf of any authority for which the Council is an agent) are involved.

## 4.2 **Section 151 Officer and Head of Financial Services**

4.2.1 Functions of the Section 151 Officer

- (a) Ensuring lawfulness and financial prudence of decision making. After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council or to the Executive in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action, will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully, or the Council has insufficient resources to meet its spending.

- (b) Administration of financial affairs. The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council. Internal audit is delegated under the Accounts and Regulations 1996.
  - (c) Contributing to corporate management. The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice for the strategic planning and policy making process to ensure efficient and effective use of resources.
  - (d) Providing advice. The Section 151 Officer will provide advice on the scope of the powers and authority to take decisions, maladministration, financial impropriety, probity and budget and Policy Framework issues to all councillors and will support and advise councillors and officers in their respective roles. Advice will also be provided on treasury and cash flow management, pensions, trust funds, safe custody of assets, including risk management and insurance.
  - (e) Give financial information. The Section 151 Officer will provide financial information to the media, members of the public and the community. Also financial management information to officers and councillors.
  - (f) Accounts. The Section 151 Officer will prepare statutory and other accounts, associated grant claims and supporting records.
- 4.2.2 Delegated powers conferred on the Section 151 Officer under the Council's Financial Regulations.
- 4.2.3 To be the officer with responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.
- 4.2.4 To facilitate and manage the co-ordination of medium term financial planning, annual budget planning, budget monitoring and the preparation of statutory and other accounts, associated grant claims and supporting records.
- 4.2.5 To operate all the statutory requirements relating to payroll matters.
- 4.2.6 To undertake all treasury management activity in accordance with the annual treasury management policy statement and other management policies as determined by the Council.
- 4.2.7 To deal with the Council's insurances in consultation with the Monitoring Officer in respect of any legal matter arising therefrom and in consultation with the relevant officer in respect of specific claims.
- 4.2.8 To write off debts due to the Council.
- 4.2.9 The Section 151 Officer cannot be the Monitoring Officer.