

# PART 3

## RESPONSIBILITY FOR FUNCTIONS AND OFFICER SCHEME OF DELEGATION

See Part 5 for Financial Delegations

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## PART 3A

# RESPONSIBILITY FOR FUNCTIONS

## **A. Introduction – Responsibility for Functions**

This Part A explains the types of Council functions and which part of the Council can make decisions relating to those functions. Some functions can be delegated, and this Part A includes details of the functions which have been delegated and the Councillors or Officers they have been delegated to.

### **1. Responsibility of Full Council**

The functions listed below are reserved to Full Council and can only be discharged by Full Council:

- 1.1. Approving the Key Policy Framework which shall mean the Corporate Plan and any policy or strategy required by law or by the Council to be approved by Full Council including the following:
  - 1.1.1. Children and Young People's Plan;
  - 1.1.2. Crime and Disorder Reduction Strategy;
  - 1.1.3. Development Plan Documents;
  - 1.1.4. Licensing Authority Policy Statements;
  - 1.1.5. Local Transport Plan;
  - 1.1.6. Youth Justice Plan;
  - 1.1.7. Housing Strategy;
  - 1.1.8. Corporate Plan; and
  - 1.1.9. Annual Senior Officer Pay Policy Statement.
- 1.2. The approval or adoption of the Budgetary Framework and for the purposes of this Constitution, "Budgetary Framework" shall, unless the context expressly requires otherwise, mean:
  - 1.2.1. the Revenue Budget;
  - 1.2.2. the Capital Programme;
  - 1.2.3. the Capital Strategy;
  - 1.2.4. the Medium Term Financial Plan; and
  - 1.2.5. to the extent that it is not covered by 1.2.1 to 1.2.4 above:
    - a) any plan or strategy for the control of the Council's borrowing, investments or capital expenditure or for determining the Council's minimum revenue provision; and
    - b) any other financial requirements that legislation expressly requires to be determined by Full Council.
- 1.3. The approval of any of the above documents in the event they, or part of them, need to be submitted to the Secretary of State or any Government Minister for final approval, including where they are to be submitted in draft form.

- 1.4. The approval of changes to any plan or strategy referred to above, unless one of the following applies:
  - 1.4.1. that change is required by the Secretary of State or any Government Minister where the plan or strategy has been submitted to them for approval; or
  - 1.4.2. Full Council specifically delegated authority in relation to these functions when it approved or adopted the plan or strategy.
- 1.5. Adopting and changing the Constitution save to the extent provided for in Article 14 of Part 2 of the Constitution.
- 1.6. Appointing to such Committees of the Council as it is required to appoint by or under any statute or by virtue of the Constitution, and to:
  - 1.6.1. determine the size and allocation of seats to political groups in accordance with the political balance rules;
  - 1.6.2. receive nominations of Councillors to serve on each Committee and appoint to those Committees; or
  - 1.6.3. approve any changes to the terms of reference and scheme of delegation for those Committees (as set out in Part 3 of this Constitution).
- 1.7. Appointing and removing the following:
  - 1.7.1. Chair of the Council;
  - 1.7.2. Vice-Chair of the Council; and
  - 1.7.3. Leader of the Council in accordance with the relevant legislation.
- 1.8. Authorising appointments to any joint committees which are not solely Executive bodies.
- 1.9. Approving the allocation of seats to political groups and where appropriate appointments to the Dorset and Wiltshire Fire and Rescue Authority, Dorset Police and Crime Panel, Dorset Pensions Fund Committee, Lower Central Gardens Trust Board and Stour Valley and Poole Partnership Joint Committee.
- 1.10. Approving a Members' Allowances Scheme.
- 1.11. Approving the Annual Senior Officer Pay Policy Statement.
- 1.12. Confirming the appointment of the Head of Paid Service, the Monitoring Officer, the Section 151 Officer and other Statutory Chief Officers and the dismissal of the Head of Paid Service, Monitoring Officer and Section 151 Officer in accordance with the Employment Procedure Rules and the law.
- 1.13. Making an Order to give effect to recommendations made in a Community Governance Review.
- 1.14. Changing the name of the Council.

- 1.15. Conferring honorary titles.
- 1.16. Making, amending, revoking, re-enacting and adopting byelaws and promoting and opposing the making of local legislation and personal bills in Parliament.
- 1.17. Any other function which, by law, must be reserved to the Full Council.

**Full Council has delegated specific non-executive functions to the following bodies listed below.**

## **2. Planning Committees**

**Western BCP and Eastern BCP Planning Committee comprising the following**

### **Western BCP Planning Committee**

Alderney & Bourne Valley  
 Bearwood & Merley  
 Broadstone  
 Canford Cliffs  
 Canford Heath  
 Creekmoor  
 Hamworthy  
 Kinson  
 Newtown & Heatherlands  
 Oakdale  
 Parkstone  
 Penn Hill  
 Poole Town  
 Redhill & Northbourne  
 Talbot & Branksome Woods  
 Westbourne & West Cliff

### **East BCP Planning Committee**

Boscombe East & Pokesdown  
 Boscombe West  
 Bournemouth Central  
 Burton & Grange  
 Christchurch Town  
 Commons  
 East Cliff & Springbourne  
 East Southbourne & Tuckton  
 Highcliffe & Walkford  
 Littledown & Iford  
 Moordown  
 Mudeford, Stanpit & West Highcliffe  
 Muscliff & Strouden Park  
 Queen's Park  
 Wallisdown & Winton West  
 West Southbourne  
 Winton East

- 2.1. All matters relating to Town & Country Planning functions as set out in the planning and related Acts, are delegated to the relevant senior planning officer as set out in the Chief Executive's Scheme of Delegation to determine, other than those matters as set out below which shall be the responsibility of the respective area Planning Committee.
- 2.2. For the avoidance of doubt, applications falling within more than one Committee area shall be determined by the Committee in whose area contains the greater proportion of land within the red line application site boundary. In the event that the area within the red line application site boundary falls equally between the two committees, the relevant Chief Officer with responsibility for Planning (or any person nominated by them for such a purpose) shall determine, in consultation with both chairs, and having regard to the location of any impacts of the proposal that the Chief Officer (or any person nominated

by them for such purpose) considers relevant, to which of the two committees the report relating to the application will be taken for the determination to be made.

2.3. The Planning Committees have responsibility to determine the following:

- 2.3.1. applications submitted by or on behalf of a Councillor or direct family (spouse or civil partner) of a Councillor for any property or land in which they have a financial interest;
- 2.3.2. applications submitted by or on behalf of a current Officer:
  - a) working within the planning section; or
  - b) at Tier 3 level and above; or
  - c) direct family (spouse or civil partner) of Officers identified under 2.3.2 a) and b); or
  - d) for any property or land in which they have a financial interest;
- 2.3.3. applications referred to the respective Committee by the relevant senior planning officer for one or more of the following reasons:
  - a) applications where there are material planning issues that have not previously been considered within the Council's area;
  - b) applications for reserved matters where the outline planning permission was granted by Planning Committee unless the Planning Committee have expressly requested (when determining applications for outline planning permission) that the subsequent reserved matters should not be referred to Planning Committee for determination;
  - c) applications with a major economic impact;
  - d) applications by or on behalf of a planning Officer who has recently left the organisation; and/or
  - e) applications that the Head of Planning Operations considers are potentially contentious and raise material planning issues, have a finely balanced Officer recommendation or would affect the wider public interest;
- 2.3.4. applications where the Council is the applicant or landowner and subject to 10 or more representations from third parties provided that to count toward that number, a representation must fulfil the criteria under paragraph 2.3.8, and are not an application listed under paragraph 2.3.7(c);
- 2.3.5. significant departure from Development Plan Policy which would be required to be the subject of consultation with the Secretary of State;



- 2.3.6. applications which require an Environmental Impact Assessment except where the relevant senior planning officer considers that approval of the application would not lead to significant environmental impacts;
- 2.3.7. an application which a Councillor requests should be referred to the Planning Committee ("Councillor Call-In") provided that all of the following criteria are met:
- a) in the opinion of the Councillor making the request, the application raises material planning issues that affect part or all of their ward or would affect the wider public interest that would warrant debate and consideration by a planning committee; and
  - b) the request is in accordance with the local planning authority's agreed call-in protocol (as set out at paragraphs 2.6 and 2.7 to this Part 3A); and
  - c) the Application is not one of the following:
    - i. Permission in Principle (PIPs)
    - ii. Lawful Development Certificates (LDC) (existing or proposed)
    - iii. Prior Approvals and Prior Notifications
    - iv. non-material amendments (S96 applications)
    - v. applications other than "major", "minor" and "householder".
- 2.3.8. applications where there have been 20 or more representations from third parties provided that to count toward that number, a representation must:
- a) identify on the representation that it has come from a residence which is believed by the case officer (at the time of deciding whether the matter needs to go to Planning Committee) to be within one mile of any point measured from the relevant application site red line boundary;
  - b) be received by the Council within the initial or any subsequent representation period as identified on the posted planning site notice relating to that application or any other related representation period provided by the Council if no planning site notice is posted;
  - c) identify one or more issues that the case officer considers to be of material planning relevance to the application to which it relates;
  - d) not have been withdrawn by the person making the representation prior to the time of deciding whether the matter needs to go to Planning Committee;
  - e) be contrary to the intended case officer recommendation; and

- f) provided that any additional representation from the same residence may be counted if in the opinion of the relevant senior planning officer in consultation with the relevant Chair of Planning it raises any different relevant material planning issues to those already contained in other representations from that residence.
- 2.4. The Planning Committees have power to receive and provide comment on presentations relating to pre-application planning proposals that the relevant senior planning officer considers appropriate having regard to the Council's Local Code of Best Practice relating to Planning Matters and any extant guidelines agreed by the Planning Committee.
- 2.5. In addition to the powers identified above, the Planning Committees have the power to consider and determine any matter arising in relation to any Town and Country Planning Legislation where that matter has been expressly referred to the Planning Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Officer Scheme of Delegations.
- 2.6. The requirement of the call-in protocol referred to at 2.3.7 above are as follows:
  - 2.6.1. the request is submitted on the latest Planning Committee Referral Form produced for that purpose ("Planning Committee Referral Form") and all parts of the submitted Planning Committee Referral Form have been completed. This includes setting out:
    - a) planning reasons that the Councillor considers are material to the application that justify the referral;
    - b) why it is considered that the application will affect the ward of the Councillor making the referral or why the Councillor considers that the application would affect the wider public interest and should be considered by planning committee; and
    - c) confirmation that the Councillor, in advance of submitting the Planning Committee Referral Form, has used their reasonable endeavours to notify all Councillors in whose ward the application site (of the application) is situated in whole or part that they are making a call in request; and
  - 2.6.2. the completed Planning Committee Referral Form:
    - a) has been submitted by the Councillor making the request by email and received in the inbox of both the case officer and the relevant office inbox as follows:
      - i. an application where the application site is wholly or partly in the former Bournemouth Council area - [planning.bournemouth@bpcouncil.gov.uk](mailto:planning.bournemouth@bpcouncil.gov.uk);
      - ii. an application where the application site is wholly or partly in the former Christchurch Council area - [planning.christchurch@bpcouncil.gov.uk](mailto:planning.christchurch@bpcouncil.gov.uk);

- iii. an application where the application site is wholly or partly in the former Poole Council area  
planning.poole@bcpcouncil.gov.uk,
- iv. or any other inbox notified to Councillors for this specific purpose

(N.B. if an application crosses more than one former Council area then the request must be sent to both relevant office email addresses); and

- b) is received no later than 4pm on the seventh calendar day after the initial or subsequent notification period as identified on the posted planning site notice relating to that application or any other related notification period provided by the Council if no planning site notice is posted.

## 2.7. With regard to the Councillor Call-In:

- 2.7.1. a Councillor may make the request that the application be called in conditional upon the case officer recommendation being to either grant or refuse or in the alternative may make the request unconditional;
- 2.7.2. a request may be withdrawn by the Councillor by sending an email notification to both the case officer and the relevant office inbox (see paragraph 2.6.2 above), that is received in both inboxes no later than 7 calendar days prior to the agenda publication date of the relevant Planning Committee meeting; and
- 2.7.3. in the event of any of the requirements relating to the Councillor Call-In not being met, the Councillor Call-In will not have been validly made and Councillors should be aware that a decision may (subject to the exercise of the option in paragraph 2.5 above) at any time thereafter be made by officers under delegated powers.

- 2.8. For the avoidance of doubt, for the purposes of the 20 representation process identified in 2.3.8 above, a representation that identifies more than one name on it (including a petition) shall only be counted as one representation in calculating whether the 20 representation trigger has been reached.

## 3. Licensing Committee

- 3.1. All matters relating to Licensing functions as set out in the relevant legislation are delegated to Officers pursuant to the Chief Executive's Scheme of Delegation to determine other than those matters set out below which shall be the responsibility of the Licensing Committee.
- 3.2. The Licensing Committee has responsibility for the following:
  - 3.2.1. making recommendations to Full Council in relation to the Council's policies under the Licensing Act 2003, the Gambling Act 2005, the Police Reform and Social Responsibility Act 2011, and the Council's Regulations on the Control of Sex Establishments made under the

Local Government (Miscellaneous Provisions) Act 1982 and any other relevant legislation;

- 3.2.2. making decisions in connection with statutory commercial public safety licensing of a type that may require quasi-judicial process or intervention – for example, alcohol, entertainment, gambling, sexual entertainment venues, street trading, charitable collections and public carriages;
- 3.2.3. establishing Licensing Sub-Committees, subject to statutory provisions, and to determine the number of such Committees, after first consulting with the Monitoring Officer or the Monitoring Officer's nominated representative to ensure Councillors have suitable expertise and to avoid political imbalance;
- 3.2.4. delegating appropriate matters to Licensing Sub-Committees for a decision. Any such delegation is without prejudice to the Licensing Committee's ability to consider and determine those matters notwithstanding the delegation, these matters may include the following:
  - a) decisions on applications made under the Licensing Act 2003 for new Premises Licences and/or Club Premises Certificates where representations have been made and not withdrawn;
  - b) decisions on applications made under the Licensing Act 2003 to vary Premises Licences and/or Club Premises Certificates where representations have been made and not withdrawn;
  - c) decisions on applications made by the Police under the Licensing Act 2003 for expedited reviews of Premises Licences and/or Club Premises Certificates;
  - d) decisions on applications to review Premises Licences and/or Club Premises Certificates made under the Licensing Act 2003, including those licences which have been the subject of an earlier expedited review;
  - e) decisions on applications made under the Licensing Act 2003 for Personal Licences where representations have been made and not withdrawn, or where the applicant has unspent convictions;
  - f) decisions on applications made under the Licensing Act 2003 for a Provisional Statement where representations have been made and not withdrawn;
  - g) decisions on applications for a Temporary Event Notice made under the Licensing Act 2003 where Police or Environmental Health representations have been made;
  - h) decisions on Public Carriage licensing matters which fall outside of existing policies;

- i) decisions on Public Carriage disciplinary matters;
- j) decisions on applications made under the Gambling Act 2005 where representations have been received and not withdrawn for the following:
  - i. applications for new Premises Licences;
  - ii. applications for Variation of a Premises Licence;
  - iii. applications for a Provisional Statement; and
  - iv. applications for other permits;
- k) decisions on applications for transfer of a Premises Licence made under the Gambling Act 2005 where representations have been received from the Gambling Commission;
- l) decisions on applications made under the Gambling Act 2005 for:
  - i. cancellation of Club Gaming/Club Machine Permits;
  - ii. cancellation of Licensed Premises Gaming Machine Permits; and
  - iii. a decision to give a Counter Notice to a Temporary Use Notice;
- m) making decisions in matters under the Licensing Act 2003 where there are unresolved Police representations relating to applications:
  - i. to vary the Designated Personal Licence Holder;
  - ii. for the transfer of a Premises Licence; and
  - iii. for Interim Authorities;
- n) making decisions on all applications relating to premises or land operated by the Council where relevant representations are received;
- o) making decisions on applications to review Premises Licences made under the Gambling Act 2005;
- p) making decisions on applications relating to Street Trading which fall outside of existing policies;
- q) making decisions on Public Carriage disciplinary matters that may result in the revocation or suspension of a Taxi Operators Licence;
- r) making decisions on applications for new Sex Establishment and Sexual Entertainment Licences;

- s) making decisions on applications for renewals of Sex Establishment and Sexual Entertainment Licences where representations have been received and not withdrawn;
  - t) making any decisions required to be made within the following legislative frameworks which have not been delegated by the Committee to Officers:
    - i. Caravan Site Act 1968 and Mobile Home Act 2013 and related legislation;
    - ii. Charities Act 1992 and related legislation;
    - iii. Street Trading Permits and Table and Chair permissions and related permissions; and
    - iv. Animal Welfare Licensing – where there are objections to licences;
  - u) approving the level of fees charged by the Council; and
  - v) making decisions on the tariffs charged by the Public Carriage Trade.
- 3.2.5. determining any matter arising in relation to any Licensing Function where that matter has been expressly referred to the Licensing Committee by an Officer for such a purpose as an alternative to that Officer exercising a power delegated to them pursuant to the Scheme of Delegation to Officers.

## **4. Overview and Scrutiny Function**

### **Interpretation**

- 4.1. In this section (4) any references to ‘committees’ includes ‘committees and boards’ unless otherwise stated.

### **Overview and Scrutiny Committees**

- 4.2. The Overview and Scrutiny Committees share the following responsibilities where the subject matter falls within their remit as defined in paragraphs 4.3 to 4.10:
- 4.2.1. scrutinising decisions of the Cabinet, offering advice or making recommendations on the matter;
  - 4.2.2. offering any views or advice to the Cabinet or Council in relation to any matter referred for consideration by the Cabinet or Council;
  - 4.2.3. monitoring the implementation of decisions to examine their effect and outcomes;
  - 4.2.4. referring to full Council, the Cabinet or appropriate Committee/Sub-Committee any matter which, following scrutiny, the Overview and

Scrutiny Committee determines should be brought to the attention of the Council, Cabinet or the Committee or Sub-Committee;

- 4.2.5. undertaking general policy reviews with a cross-service and multi-organisational approach wherever possible, and making recommendations to the Council or the Cabinet to assist in the development of future policies and strategies;
- 4.2.6. assisting the Council in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- 4.2.7. preparation, implementation, monitoring and review of a work programme;
- 4.2.8. establishing such commissioned work as appropriate after taking into account the availability of resources, the work programme and the matter under review.

### **Overview and Scrutiny Board**

4.3. The Overview and Scrutiny Board has responsibility for:

- 4.3.1. carrying out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters such as finance and transformation, economic development, regeneration and infrastructure, communication, culture, events, libraries, museums, community safety, regulatory services, licensing, leisure, sport and tourism;
- 4.3.2. considering decisions that have been called-in pursuant to the Procedures set out in this Constitution for further scrutiny;
- 4.3.3. undertaking scrutiny of the Council's budget processes, and may be assisted by representation from the other Committees in this task;
- 4.3.4. carrying out the Council's overview and scrutiny functions relating to crime and disorder as required by legislation. Crime and disorder overview and scrutiny will take place at least once a year.
- 4.3.5. discharging any other statutory duties for which the Overview and Scrutiny function is responsible, other than those that relate to Flood Risk Management, Health, Adult Social Care, Children's Services and Education;
- 4.3.6. the preparation, implementation, monitoring and review of a work programme for the Overview and Scrutiny Board;
- 4.3.7. overseeing the Council's overall Overview and Scrutiny function including oversight of the work plans and use of resource across all Overview and Scrutiny bodies;
- 4.3.8. keeping the Overview and Scrutiny function under review, suggesting changes as appropriate to ensure that it remains fit for purpose;
- 4.3.9. reporting annually to Full Council on the output of the Overview and Scrutiny function providing an assessment of the value added by the work undertaken, taking into account the agreed principles on which the function is based;



- 4.3.10. maintaining oversight and establishing priorities for the training needs of the whole of the Overview and Scrutiny function.

#### **Health and Adult Social Care Overview and Scrutiny Committee**

- 4.4. The Health and Adult Social Care Overview and Scrutiny Committee will carry out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters regarding health, adult social care, public health, community care and any other issues relating to the delivery of health services by health service providers and NHS bodies affecting the residents of Bournemouth, Christchurch and Poole.
- 4.5. This Committee carries out all the Council's overview and scrutiny functions relating to health as required by legislation.

#### **Children's Services Overview and Scrutiny Committee**

- 4.6. The Children's Services Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters which relate to the delivery of services for children in Bournemouth, Christchurch and Poole.
- 4.7. This Committee acts as the Council's Statutory Education Committee as required by legislation.
- 4.8. Education co-optees will be appointed to this Committee in line with legislation, and as set out within Article 6 of this Constitution.

#### **Environment and Place Overview and Scrutiny Committee**

- 4.9. The Environment and Place Overview and Scrutiny Committee will be responsible for carrying out those duties as outlined in 4.2.1 to 4.2.8 above, in relation to matters such as planning development management, house building, homes, environment, cleansing, waste and sustainability.
- 4.10. This Committee carries out all the Council's overview and scrutiny functions relating to flood risk management as required by legislation.

#### **Changes to functions of Overview and Scrutiny Committees**

- 4.11. The remit of the Overview and Scrutiny Committees is based on the division of Portfolio Holder responsibilities. Portfolio Holders may report to more than one Overview and Scrutiny Committee.
- 4.12. Portfolio Holder responsibilities are changeable and from time to time it may be necessary to modify the designation of functions across the Overview and Scrutiny Committees to maintain an efficient fit and clear lines of accountability. Changes will be included as required within the annual report of the Statutory Scrutiny Officer to Council.



## **5. Audit and Governance Committee**

- 5.1. Functions of the Audit & Governance Committee are set out below. The Audit & Governance Committee cannot delegate for a decision any issues referred to it apart from any matter that is reserved to Council.

### **Statement of Purpose**

- 5.2. The Audit & Governance Committee is a key component of the Council's corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- 5.3. The purpose of our Audit & Governance Committee is to provide independent assurance of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

### **Governance, Risk & Control**

- 5.4. To consider the arrangements for corporate governance including reviews of the Local Code of Corporate Governance and review and approval of the Annual Governance Statement (AGS).
- 5.5. To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
- 5.6. To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
- 5.7. To consider arrangements for risk management including the approval of the Risk Management Strategy and review of the Council's corporate risk register.
- 5.8. To consider arrangements for counter-fraud and corruption, including 'whistle-blowing' including approval of the Counter Theft, Fraud & Corruption Policy and the outcomes of any investigations in relation to this policy.
- 5.9. To review the governance and assurance arrangements for significant partnerships or collaborations.

### **Internal Audit**

- 5.10. To approve the Internal Audit Charter.
- 5.11. To approve the risk-based Internal Audit Plan, including Internal Audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.

- 5.12. To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.
- 5.13. To consider reports from the Head of Internal Audit on Internal Audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - 5.13.1. updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work;
  - 5.13.2. regular reports on the results of the Quality Assurance Improvement Programme (QAIP); and
  - 5.13.3. reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Government Application Note (LGAN), considering whether the nonconformance is significant enough that it must be included in the Annual Governance Statement (AGS).
- 5.14. To consider the Head of Internal Audit's annual report, including:
  - 5.14.1. the statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit; and
  - 5.14.2. the opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the AGS.
- 5.15. To consider summaries of specific internal audit reports as scheduled in the forward plan for the Committee or otherwise requested by Councillors.
- 5.16. To receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
- 5.17. To contribute to the QAIP and in particular to the external quality assessment of internal audit that takes place at least once every 5 years.
- 5.18. To commission work from the Internal Audit Service (with due regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee.

### **External Audit**

- 5.19. To support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by Public Sector Audit Appointments Ltd (PSAA).
- 5.20. To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.

- 5.21. To consider all other relevant reports from the External Auditor as scheduled in the forward plan for the Committee as agreed with the External Auditor or otherwise requested by Councillors.
- 5.22. To comment on the scope and depth of external audit work and to ensure it gives value for money.
- 5.23. To commission work from External Audit (with due regard to the resources available and the existing scope and breadth of their respective work programmes and the forward plan for the Committee).
- 5.24. To liaise with the national body (currently Public Sector Audit Appointments (Ltd)) (PSAA) over the appointment of the Council's External Auditors.
- 5.25. To consider reports dealing with the management and performance of the External Audit function.
- 5.26. To consider and approve the Annual Plans of the External Auditor.

### **Financial Reporting**

- 5.27. To review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- 5.28. To consider the external auditors report to those charged with governance on issues arising from the audit of the accounts.

### **Accountability Arrangements**

- 5.29. To report to Full Council and publish an annual report on the committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.
- 5.30. To report to Full Council and publish an annual report on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.

### **Other Functions**

- 5.31. To consider arrangements for treasury management including approving the Treasury Management Strategy and monitoring the performance of this function.
- 5.32. To maintain an overview of the Council's Constitution in respect of financial regulations, working protocols and codes of conduct and behaviour (not otherwise reserved to the Standards Committee or other committees).
- 5.33. To consider breaches, waivers and exemptions of the Financial Regulations.

- 5.34. To consider any relevant issue referred to it by the Chief Executive, Chief Finance Officer (CFO), Chief Internal Auditor (CIA), Monitoring Officer (MO) or any other Council body or Cabinet Member.
- 5.35. To consider arrangements for information governance, health and safety, fire safety, emergency planning (including business continuity).
- 5.36. To consider any issue of Council non-compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.
- 5.37. To consider gifts and hospitality registers relating to officers.

## **6. Standards Committee**

- 6.1. The Standards Committee will have responsibility for:
  - 6.1.1. monitoring the Code of Conduct and arrangements for dealing with complaints against Councillors and making recommendations to Full Council on any changes to the Code;
  - 6.1.2. promoting and maintaining the Council's responsibilities for ethical governance and high standards of conduct;
  - 6.1.3. ensuring that appropriate advice and training is provided to Councillors in respect of ethical governance and the Code of Conduct;
  - 6.1.4. supporting the Monitoring Officer in discharging their duties in relation to the conduct and behaviour of Councillors;
  - 6.1.5. promoting the observance of the ethical governance agenda within Parish and Town Councils in its area;
  - 6.1.6. considering the outcome of investigations undertaken pursuant to the arrangements for dealing with allegations of a breach of the Code of Conduct;
  - 6.1.7. making arrangements for suitable liaison as appropriate with the statutory Independent Persons in the course of dealing with an allegation of breach of the Code of Conduct; and
  - 6.1.8. considering an Annual Report on Gifts and Hospitality Registers relating to Councillors.

## **7. Appeals Committee**

- 7.1. The Appeals Committee will have responsibility for determining:
  - 7.1.1. appeals by parents and students against the Council's decision in relation to student awards;
  - 7.1.2. appeals by parents against the Council's decision on boarding education matters and other pupil benefits;

- 7.1.3. appeals by parents against the Council's decision in relation to the provision of transport in cases of need, special circumstance or safety;
- 7.1.4. appeals against the Council's decision on the provision of transport to denominational schools and colleges; and
- 7.1.5. appeals relating to disciplinary action against, and in respect of, the relevant Statutory Officers, as defined in The Local Authorities (Standing Orders)(England) Regulations 2001 (as amended).

## **8. Investigation and Disciplinary Committees**

### **Investigation and Disciplinary Committee (IDC)**

- 8.1. The Investigation and Disciplinary Committee will have responsibility for disciplinary and dismissal matters which relate to the relevant statutory officers, as defined in The Local Authorities (Standing Orders)(England) Regulations 2001 (as amended). The relevant officers being the Head of Paid Service; Chief Finance Officer and Monitoring Officer.
- 8.2. The IDC shall undertake the responsibilities required pursuant to the relevant 2015 Regulations agreed Guidance and Model Procedure issued by the relevant national JNC or other relevant body that may exist in future.
- 8.3. The IDC is to be a Committee consisting of six councillors and must include the Leader of the Council and another member of the Cabinet.
- 8.4. In the case of a complaint against a relevant Officer, the decision whether to refer the matter to the Investigation and Disciplinary Committee will be delegated to:
  - 8.4.1. the Monitoring Officer or Chief Finance Officer, in consultation with the Director of People & Culture, in the case of a complaint against the Head of Paid Service, and;
  - 8.4.2. the Head of Paid Service, in consultation with the Director of People & Culture, in the case of a complaint against the Monitoring Officer or Chief Finance Officer.
- 8.5. The IDC will have delegated responsibility for the suspension of the relevant Officers. In the event of the need for urgency, this function is delegated to the Head of Paid Service (in the case of the Monitoring Officer or Chief Finance Officer) or the Monitoring Officer (in the case of the Head of Paid Service) in consultation with the Chair of the IDC.
- 8.6. The relevant officers will be given the same right to be accompanied at any disciplinary hearing as all Council employees. Additionally, this will include the right to be accompanied by a legal representative at their own cost.

## **Independent Panel**

- 8.7. The three Independent Persons appointed by the Council pursuant to the Localism Act requirements shall act as the Independent Panel in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015).

## **9. Transportation Advisory Group**

- 9.1. The Transportation Advisory Group (TAG) may:
- 9.1.1. consider transportation issues, including proposed highway regulation and traffic regulation orders, which are not otherwise delegated to the relevant Chief Officer to determine in accordance with the officer scheme of delegation;
  - 9.1.2. receive representations from residents, ward councillors, petitioners and interested persons when considering matters under 9.1.1 above;
  - 9.1.3. provide feedback to Cabinet as a consultee, including reasons when at variance to the officer recommendation, on each of the transport issues referred to it under 9.1.1 above;
- 9.2. For the avoidance of doubt, the Transportation Advisory Group is not permitted to make decisions in its own right.
- 9.3. The composition of the Transportation Advisory Group shall consist of one appointed representative (excluding Executive Members) from each formally constituted political group under The Local Government (Committees and Political Groups) Regulations 1990 and shall appoint one of the political group representatives to preside.

## **10. Leader and Cabinet – Executive Functions**

### **Discharge of Executive Functions**

- 10.1. All executive authority flows through the Leader who retains the authority to make any executive decisions and subject to this may delegate decision-making to:
- 10.1.1. the Cabinet;
  - 10.1.2. a member of the Cabinet;
  - 10.1.3. a Committee of the Cabinet;
  - 10.1.4. an Officer;
  - 10.1.5. another Council; or
  - 10.1.6. another organisation under joint arrangements.

## Local Choice Executive Functions

- 10.2. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 identifies functions which may be the responsibility of an authority's executive. The schedule below identifies these functions and indicates whether the function is an executive or non-executive function.

1.	Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Executive
2.	The determination of an appeal against any decision made by or on behalf of the Council	Non-executive
3.	The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools	Non-Executive
4.	The making of arrangements pursuant to sections 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (admissions appeals)	Non-Executive
5.	The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies)	Non-Executive
6.	Any function relating to contaminated land	Non-executive
7.	The discharge of any function relating to the control of pollution or the management of air quality	Non-executive
8.	The service of an abatement notice in respect of a statutory nuisance	Non-executive
9.	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Non-executive
10.	The inspection of the authority's area to detect any statutory nuisance	Non-executive
11.	The investigation of any complaint as to the existence of a statutory nuisance	Non-executive

12.	The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	Non-executive
13.	The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Non-executive
14.	The making of agreements for the execution of highways works	Non-executive
15.	The appointment of any individual— (a) to any office other than an office in which he is employed by the authority; (b) to any body other than— (i) the authority; (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment	Non- executive
16.	The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	Non-executive
17.	Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 of Schedule 2 Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Non-executive Not applicable

### Functions of the Cabinet

10.3. The Leader will prepare a Scheme of Delegation in which the Leader will confirm which of the following functions will be delegated to the Cabinet:

- 10.3.1. responsibility for strategic and policy co-ordination;
- 10.3.2. making recommendations to Full Council for approval as part of the Budget and Key Policy Framework, major new policies, changes to or revisions of existing policies or any other plan or strategy which Full Council decides it shall adopt or approve;
- 10.3.3. carrying out the Council's responsibilities for improving the economic social and environmental well-being of the area;
- 10.3.4. ensuring that the Annual Budget is set and the underlying principles set out in the Financial Regulations adhered to in any changes



required from time to time including recommending to Full Council any changes to policy that will materially reduce or increase the services of the Council or create significant financial commitments in future years in accordance with the requirements of the Financial Regulations;

- 10.3.5. recommending to Full Council the overall financial strategy, including the Capital and Revenue Budgets and the level of Council Tax and the Council Tax Base;
- 10.3.6. monitoring spending on the Capital Programme;
- 10.3.7. taking in year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver the Key Policy Framework, Corporate Plan and Budget;
- 10.3.8. considering and responding to recommendations and reports from the Overview and Scrutiny Board and Committees;
- 10.3.9. considering the reports of external review bodies on key aspects of overall service delivery;
- 10.3.10. deciding all Local Choice Functions which Full Council has decided should be undertaken by the Cabinet;
- 10.3.11. carrying out those Executive Functions of the Council not delegated to other bodies, individual Cabinet Members or Officers pursuant to one of the schemes of delegation;
- 10.3.12. resolving disputes between Cabinet Members including those where there is no agreement between Portfolio Holders relating to cross-portfolio issues;
- 10.3.13. being involved in the process for appointment of the Council's Chief Executive/Head of Paid Service and other Officers as set out in the Employment Procedure Rules in Part 4;
- 10.3.14. making the final decision on joint arrangements and delegations to other councils which relate to Executive Functions; and
- 10.3.15. conferring with other councils, government departments, statutory bodies, voluntary bodies, and other external agencies.

## **11. Functions of Individual Members of the Cabinet**

### **The Leader**

- 11.1. The Leader will perform the following functions:
  - 11.1.1. leading on implementing the Council's policy and budget decisions;
  - 11.1.2. providing leadership of the Council by setting the strategic direction and key priorities, overseeing the development of the financial strategies;
  - 11.1.3. representing the Council in the community and in negotiations with regional and national organisations;

- 11.1.4. in the absence of a Portfolio Holder taking responsibility for all relevant matters within the remit of the Cabinet;
- 11.1.5. appointment of a Deputy Leader;
- 11.1.6. appointment of up to 9 Councillors to be Members of the Cabinet;
- 11.1.7. allocating to each Member of the Cabinet areas of responsibility to be known as Portfolios;
- 11.1.8. notifying the Monitoring Officer of the allocation of responsibility so that the information can be compiled in the Cabinet Members' Portfolio Scheme;
- 11.1.9. providing leadership to the Cabinet and chair Cabinet meetings;
- 11.1.10. where the Leader judges it to be the most suitable course of action, the Leader may require any decision proposed by one or more Portfolio Holders to be taken by the full Cabinet;
- 11.1.11. exercising discretion to personally discharge any Executive Functions or make arrangements for their discharge by the Cabinet, another Member of the Cabinet, a Committee of the Cabinet or an Officer (without prejudice to their continued power to discharge that function); and
- 11.1.12. responsibility for all Executive Functions not expressed to be within the remit of the Leader or otherwise delegated by the Leader to the Cabinet, a Cabinet Member, Committee of the Cabinet or to Officers.

### **The Deputy Leader**

- 11.2. In addition to their Portfolio responsibilities, the Deputy Leader will Deputise in the Leader's absence or inability to act due to a conflict of interest.

### **Delegation to Cabinet Members**

- 11.3. All Cabinet Members will be publicly accountable for the Executive Functions of the Council. This will include specific responsibility for matters within the scope of their Portfolio as follows:
  - 11.3.1. to make decisions consistent with the Council's Key Policy Framework;
  - 11.3.2. to make decisions within approved budgets or within virement discretion in accordance with the Financial Regulations;
  - 11.3.3. to make decisions which do not compromise any existing or proposed policy;
  - 11.3.4. to refer to the Leader any matter considered by the Portfolio Holder or the Leader to be too sensitive or controversial to be decided 'within Portfolio';
  - 11.3.5. to agree decisions with other Portfolio Holders where the matter is a cross-portfolio matter. To refer to the Leader any such matter which cannot be agreed;

- 11.3.6. to give public account of the functions and decisions made within the Portfolio areas of responsibility;
  - 11.3.7. to maintain clear communication with the Chairs of the relevant Overview and Scrutiny Board and Committees;
  - 11.3.8. to represent the Council with external bodies and agencies in order to promote the work of the Council and the Council's interests and improve Council influence with external bodies;
  - 11.3.9. to develop clear, affordable policies and strategies for services which are consistent with the Council's wider objectives and consistent with the Council's cross cutting objectives;
  - 11.3.10. to set clear priorities which are consistent with the Council's policies and strategic objectives;
  - 11.3.11. to ensure that resources are efficiently managed within allocations set by Council and that risk is well managed; and
  - 11.3.12. specific projects as agreed with the Leader of the Council.
- 11.4. Where matters are to be discharged by the Cabinet then (unless the Leader directs otherwise) the Cabinet may exercise its discretion to delegate those matters to a Committee of the Cabinet or to an Officer.
  - 11.5. Where matters are to be discharged by a single Cabinet Member then unless the Leader directs otherwise that Cabinet Member may exercise their discretion to delegate those matters to an Officer.
  - 11.6. Where Executive Functions have been delegated that does not prevent the discharge of the delegated functions by the person or body who delegated them or by the Leader who retains the authority to make any executive decision.

### **Cabinet Portfolio Scheme**

- 11.7. The Portfolios must be contained within a Schedule which will be published on the Council's website, part of this Constitution and subject to review and updating by the Leader of the Council at their discretion.

### **Leader Delegation to Chief Executive**

- 11.8. The Leader will set out specific additional delegations within a Schedule to the Chief Executive over and above those set out below in the Scheme of Delegation to Officers which will be published, part of the Constitution and subject to review and updating by the Leader of the Council at their discretion.

## **12. Shareholder Advisory Board and the Shareholder Operations Board Governance Framework**

### **Purpose**

- 12.1. The Shareholder Advisory Board (SAB) has been established specifically to discharge the shareholder functions of the Council, in relation to those companies of which the Council is a shareholder.
- 12.2. The Shareholder Operations Board (SOB) has been established to provide strategic management of the Council companies and will advise and make recommendations to the Shareholder Advisory Board.
- 12.3. The SAB and SOB have been established to advise on the activities of all Council companies as defined in section 12.10 below.
- 12.4. The shareholder in this context is always the Chief Executive of BCP Council or BCP Council, not the members of the Shareholder Advisory Board themselves, or any Directors appointed to represent the Council on the boards of these companies.
- 12.5. The Shareholder Advisory Board does not have day-to-day operational control over any of the companies of which the Council is a shareholder. It is the responsibility of the Shareholder Advisory Board to:
  - 12.5.1. formulate policy direction for Council companies prior to formal consideration and adoption by Cabinet, including
  - 12.5.2. to consider proposals from the Shareholder Operations Board for the creation, liquidation, disposal and acquisition, appointment of directors, annual business plan, governance and financing; of any Council company noting that some of these functions may require Cabinet approval and
  - 12.5.3. to receive and consider reports on company performance.
- 12.6. The Shareholder Operations Board has the following responsibilities:
  - 12.6.1. To support the Shareholder Advisory Board;
  - 12.6.2. To oversee the implementation of decision by Cabinet concerning Council Companies;
  - 12.6.3. To oversee the commissioning of work from Council Companies;
  - 12.6.4. To oversee the due diligence upon and validation of the business plan received from Council companies prior to presentation to the Shareholder Advisory Board;
  - 12.6.5. To oversee funding arrangements for Council companies;
  - 12.6.6. To oversee the performance of Council companies.
- 12.7. All decisions regarding the day-to-day operation of each company are the responsibility of the Board of Directors of each company.

- 12.8. Each Board of Directors will include:
- 12.8.1. **“Council Directors”** who for the purposes of this document are the non-executive (i.e., non-salaried) directors appointed by the Chief Executive in accordance with the Articles and/or Shareholder Agreement of the Company, to represent the Council on the Board of directors. This category will often (but not always) include the Chair of the Board of directors; and
  - 12.8.2. **“Non-Council Directors”** who for the purposes of this document include the executive (i.e., salaried) directors and the independent non-executive directors appointed by the Board. This category will include the Managing Director of the company.
- 12.9. In addition, the day-to-day liaison with the companies will be between the relevant client service of the Council and the Managing Director of each company.
- 12.10. There are two classifications of companies, which the Shareholder Advisory Board and the Shareholder Operations Board regularly deals with:
- 12.10.1. **“Teckal Companies”** – these are companies that meet all of the following three criteria:
    - a) There is no direct private capital participation in the company; in other words, either:
      - i. the Council is the sole shareholder in the company; or
      - ii. the shareholders are made up exclusively of public sector bodies, including the Council.
    - b) The Council (either acting as the sole shareholder, or together with the other public sector owners) exercises effective control over the company’s affairs; in other words, the same as the relationship between the Council (and the other public sector owners where applicable), and one of their internal directorates.
    - c) The company must be inward not outward focussed; in other words, at least 80% of the activity of the company – that is, over 80% of its turnover – must be for the Council, and where applicable its other public sector owners.
  - 12.10.2. **“Non-Teckal Companies”** – these are companies that fall outside the definition of a Teckal Company, as summarised above.
  - 12.10.3. Due to their very nature, Teckal Companies require a much greater deal of oversight from the Shareholder Advisory Board and the Shareholder Operations Board than their NonTeckal counterparts do.
  - 12.10.4. For clarification, BCP Councillors will not normally be nominated by BCP Council to Boards of Council Companies.

## Meetings of the Shareholder Advisory Board

12.11. The Shareholder Advisory Board and Shareholder Operations Board will hold the following Meetings each year, each for the following purpose:

Purpose of Meeting	Frequency of Meeting	Does this apply to Teckal Companies?	Does this apply to non-Teckal Companies?
To receive annual reports and annual accounts from companies	Once per year	Yes	Yes
Performance Monitoring (subject to any alternative monitoring requirements set out within any Shareholder Agreement or contracts for goods/services/ works with the company)	Twice per year, as a minimum	Yes	Yes (once per annum)

12.12. The Shareholders Advisory board will also consider, on a regular basis and at least every two years, the need for the continued operation of the Council company.

12.13. Any other Meetings of the Shareholder Advisory Board and the Shareholder Operations Board will be called as and when required to deal with company business.

12.14. Minutes, Notices and Agenda of Shareholder Advisory Board and the Shareholder Operations Board Meetings shall be sent to the respective Board members at least 5 working days prior to the Meeting. Administrative support to be given by the Executive Hub.

## Composition of the Shareholder Advisory Board

12.15. The Shareholder Advisory Board core membership is as follows:

- Leader of the Council (Chair of the Board)
- Cabinet Member for Finance
- Cabinet Member for Transformation, Resources & Governance
- Chief Executive

- Chief Operations Officer
- Director of Finance or Deputy
- Director of Law and Governance or Deputy
- Corporate Director of Wellbeing
- Corporate Director of Children's Services

12.16. Other Portfolio Holders, Officers and Portfolio Leads may be invited to attend specifically for items that fall within their remit, present reports, or otherwise support the meeting as required.

### **Composition of the Shareholder Operations Board**

12.17. The Shareholder Operations Board is an officer only Board and its core membership is as follows:

- Chief Executive (Shareholder Representative)
- Chief Operations Officer
- Director of Finance or Deputy
- Director of Law and Governance or Deputy
- Corporate Director of Wellbeing
- Corporate Director of Children's Services

12.18. Other Officers and Commissioning Teams may be invited to attend specifically for items that fall within their remit, present reports, or otherwise support the meeting as required.

### **Attendance**

12.19. In respect of the Shareholder Advisory Board there must be a minimum attendance of at least one Councillor and one Corporate Director at each meeting, there is no provision for substitutes or deputies unless otherwise stated in the membership above.

12.20. In respect of the Shareholder Operations Board, there must be a minimum attendance of the Chief Executive or the Chief Operations Officer, plus the Director of Finance or their Deputy and the Director of Law & Governance or their Deputy. The Chief Executive will chair meetings of the Shareholder Operations Board.

12.21. A number of BCP Council Officers will have the specific responsibility for commissioning, transacting and day to day management of arrangements with the council company. For the purposes of this document these Officers will be referred to as "Link Officers" A Link Officer will be nominated for each company and will undertake the activities set out in Annex 1. The Link Officer in relation to each company will attend meetings of the Shareholder Advisory Board as and when required.

### **BCP Council responsibility as a Shareholder of its Council Companies**

12.22. Subject to any relevant overriding provisions contained in a company's Shareholder Agreement or within a company's Articles of Association, the

Shareholder Advisory Board and the Shareholder Operations Board are collectively established to undertake all of the following functions of the Council as a shareholder under the Companies Act 2006 by:

Ref	Function	Teckal Companies	Non-Teckal Companies
a)	Acting as the owner or joint owner of the Council's companies.	✓	✓
b)	Approving or making amendments to strategic or business plans.	✓	
c)	Monitoring performance and financial delivery against strategic business plans.	✓	
d)	Approving the acquisition of shares in another company.	✓	
e)	Approving the establishment of subsidiary companies.	✓	
f)	Approving the appointment or dismissal of any company Directors (including the Chair), which requires Shareholder consent under the Articles and/or Shareholder Agreement of the company.	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
g)	Determining and approving all matters relating to terms and conditions of company Directors which require Shareholder consent under the Articles and/or Shareholder Agreement of the company.	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
h)	Determining and approving all matters relating to the entering of any contracts with company Directors, other than as permitted under any service agreement the company may have with the Council.	✓	✓
i)	Determining and approving all matters relating to the employment of the senior management team of the company which require Shareholder consent under the Articles and/or Shareholder Agreement of the company.	✓	



Ref	Function	Teckal Companies	Non-Teckal Companies
j)	Approving changes to share capital and the admission of additional shareholders.	✓	<p>✓</p> <p>In so far as it relates to:</p> <ul style="list-style-type: none"> <li>• any instruction to the Directors to allot shares;</li> <li>• any increase in the authorised share capital of the company;</li> <li>• any reduction in the authorised share capital of the company;</li> <li>• any sub-division, consolidation, or redenomination shares;</li> <li>• variation of class rights attached to shares;</li> <li>• any purchase of shares by the company itself;</li> <li>• any alteration to the company's Articles of association relating to pre-emption rights, or relating to the shares of the company; or</li> <li>• any disapplication of pre-emption rights,</li> </ul> <p>or any other matter that requires a resolution of the Council and any other shareholders of the company by law or otherwise.</p>

Ref	Function	Teckal Companies	Non-Teckal Companies
k)	Approving disposals of assets valued under £500,000.	✓	✓ In so far as it relates to a Substantial Property Transaction (as defined in the Companies Act 2006) with one of the Directors (or a connected person of that Director), and therefore requires a resolution of the Council and the other members of the company.
l)	Approving borrowing up to £100,000;	✓	✓ In so far as the financial assistance being sought is: <ul style="list-style-type: none"> <li>• by one of the Directors, or</li> <li>• by persons connected with one of the Directors, or</li> <li>• by the company to purchase its own shares,</li> </ul> and therefore requires a resolution of the Council and any other shareholders of the company.

Ref	Function	Teckal Companies	Non-Teckal Companies
m)	Approving and making grants or loans up to £500,000 other than by way of normal trade credit, subject to approval from the Council's Chief Financial Officer in line with the Council's Financial Regulations, and taking appropriate legal advice on any requirements under the UK Subsidy Control Regime and necessary grant or loan terms and conditions, and the usual risk assessments.	✓	<p>✓</p> <p>In so far as the financial assistance being sought is:</p> <ul style="list-style-type: none"> <li>• by one of the Directors, or</li> <li>• by persons connected with one of the Directors, or</li> <li>• by the company to purchase its own shares,</li> </ul> <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>
n)	Entering, amending or terminating any agreements which create a potential liability for the company in excess of £250,000 up to £500,000.	✓	
o)	Making changes to the nature of the company's business.	✓	<p>✓</p> <p>In so far as it relates to:</p> <ul style="list-style-type: none"> <li>• amendments to the company's Articles of Association or Shareholders Agreement;</li> <li>• re-registering the company from private to public (or vice versa) or limited to unlimited (or vice versa).</li> </ul>
p)	Approving a decision which could otherwise be taken by a Council Director, but which would, if being taken by the Council, amount to a key decision.	✓	
q)	Approving any dividends requiring Council consent.	✓	✓

Ref	Function	Teckal Companies	Non-Teckal Companies
r)	Exercising any powers to issue instructions to company directors.	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
s)	Exercising decision making over reserved matters set out in a company's Shareholder Agreement.	✓	✓
t)	Making recommendations to Executive for any investment in/asset transfers to or lending to companies.	✓	✓
u)	Delegating specific functions to Officers of the Council to increase commercial flexibility.	✓	

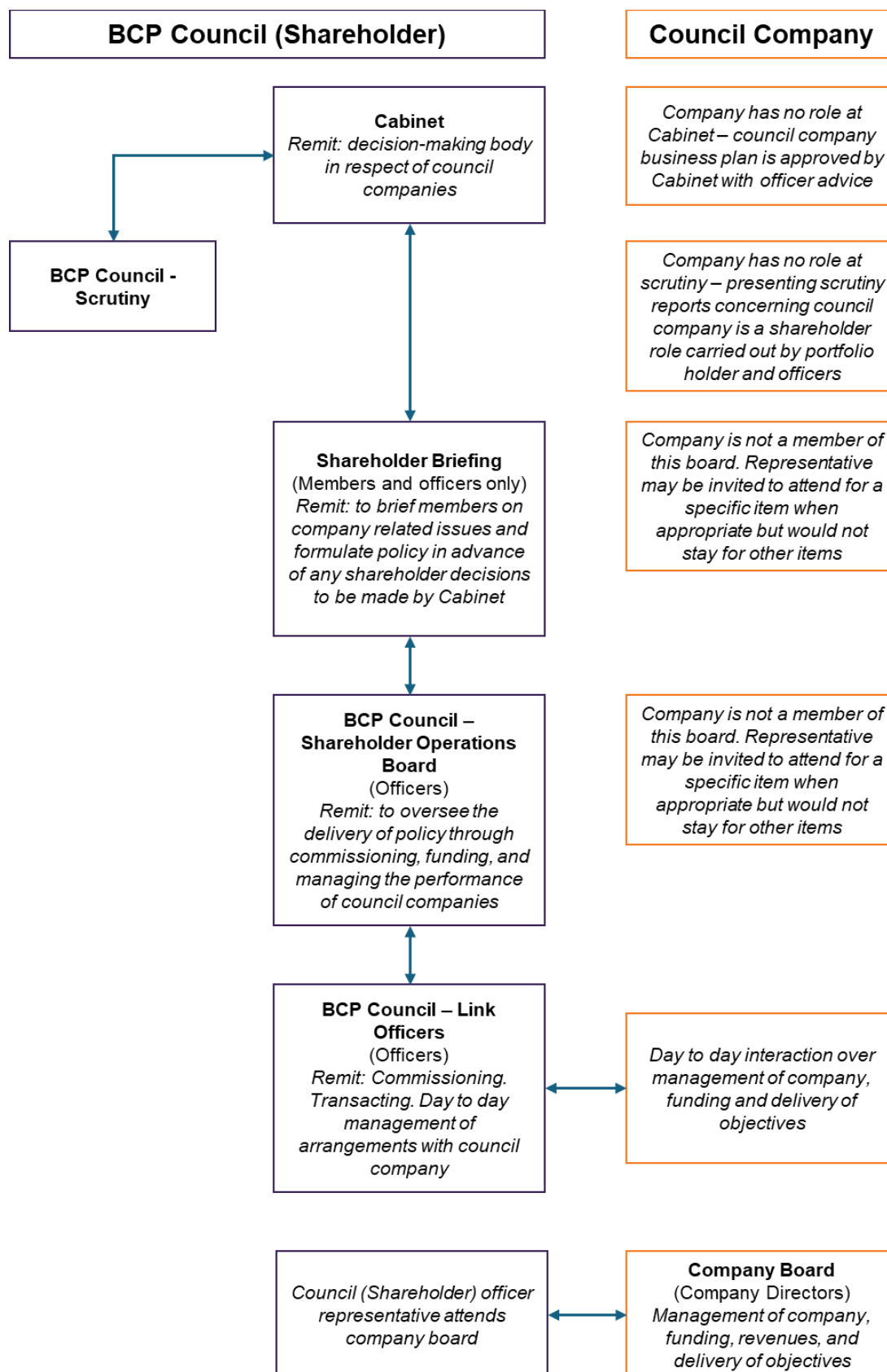
12.23. Any advice required by Shareholder Advisory Board and the Shareholder Operations Board in relation to the above and the impact of any provisions within a company's Articles of Association or any existing Shareholder Agreements must be sought from the Council's Legal Services Department.

### **Delegated powers**

12.24. Collectively the Shareholder Advisory Board and the Shareholder Operations Board have the delegations required to effectively support the Cabinet and Council to make all decisions in respect of Council companies.

12.25. The following appendix outlines the Council's Shareholder Governance Arrangements.

## Shareholder Governance Arrangements



## **ANNEX 1: Link Officers**

1. Each company shall have a nominated BCP Council client officer ('Link Officer') who will engage monthly (or more frequently as required) with that company to ensure that Shareholder Advisory Board and or Shareholder Operations Board is provided with:
  - a. Updates in respect of company performance, market conditions and assurance.
  - b. Details of strategic plans, funding and other requirements.
  - c. Sufficient information to evaluate any new business proposals.
2. The Link Officers will review reports from their nominated company before they are submitted to the Shareholder Advisory Board and Shareholder Operations Board, liaising with finance, legal or other colleagues as necessary maintain joint risk registers as required and ensure the respective Boards are provided with the level of detail and analysis required to fulfil its role.
3. Link Officers are required to:
  - a. Actively communicate and collaborate with the company and BCP Officers as required, including the Chief Executive, Director of Finance and the Director of Law & Governance or their nominated representatives.
  - b. Build and maintain effective and transparent relationships with all parties.
  - c. Actively work to promote and improve good working relationships between the Council and its companies.
  - d. Take appropriate action to avoid conflicts of interest and, where a potential conflict is identified, to assist in managing any such conflict.
  - e. Ensure that the company has the appropriate level of support and challenge, including support to deliver the agreed objectives and priorities for the Council and challenge to minimise or mitigate any risk to the Council. The appropriate balance of challenge and support will depend on the company objectives, the nature of the relationship with the company (i.e. whether wholly or partly owned), performance and risks or opportunities.
  - f. Manage and maintain effective relationships between shareholder representatives and the company.
  - g. Appropriately feedback any concerns of the Council to the company and vice versa.
  - h. Review board decisions and actions and identify any concerns in relation to directors potentially exceeding the remit of their powers.
  - i. Flag any issues and risks as quickly as possible.

## PART 3B

# SCHEME OF DELEGATION TO OFFICERS

## **B. Scheme of delegation to Officers**

This Part B sets out the Council's Scheme of Delegations to Officers.

### **1. Introduction and Interpretation**

- 1.1. Unless the context requires otherwise, in this Scheme the terms below shall be construed as follows:
- 1.1.1. "Chief Executive" includes reference to the Head of Paid Service, if different;
  - 1.1.2. "Chief Officer" means the Chief Executive together with all other officers who report directly to the Chief Executive and who form part of the corporate leadership team. Details of such officers is available upon request from the Monitoring Officer and is normally published on the Council's website;
  - 1.1.3. "delegated power", "delegation" and "delegated" includes a power delegated or nominated to an Officer;
  - 1.1.4. "Financial Powers" means the powers, duties and limitations set out in Appendix 1 – Corporate Schedule of Financial Delegations to the Financial Regulations – Part 5 of the Constitution;
  - 1.1.5. "Financial Regulations" means the financial regulations as set out in Part 5 of this Constitution;
  - 1.1.6. "operation" includes any operational or strategic related matter including:
    - a) authorising the acquisition of any asset or service; and
    - b) the management of land, premises, vehicles, plant, equipment, machinery, stock, stores, supplies, materials, furniture and appliances;
  - 1.1.7. "Officer", shall include people employed, retained or appointed by the Council to advise and support the Council and its councillors. The term "Officers" in this Constitution unless the context otherwise requires includes all the people who operate in this capacity including contractors, consultants, agency staff and volunteers. Note that for Appendix 3 – Councillor and Officer indemnities, a different definition applies;
  - 1.1.8. "Scheme" means this Officer Scheme of Delegations;
  - 1.1.9. "Town and Country Planning Legislation means all legislation relating to any function of the Council concerning town and country planning including any such function arising under any of the following:
    - a) the Town and Country Planning Act 1990;
    - b) the Planning (Hazardous Substances) Act 1990;



- c) the Planning (Listed Buildings and Conservation Areas) Act 1990;
- d) the Planning (Control of Advertisement) Regulations 1992;
- e) the Hedgerows Regulations 1997;
- f) the Anti-Social Behaviour Act 2003 (in so far as it relates to high hedges);
- g) the Planning and Compulsory Purchase Act 2004;
- h) the Planning Act 2008;
- i) all of the Town and Country Planning (General Permitted Development) (England) Orders including for the avoidance of doubt the Town and Country Planning (General Permitted Development) (England) Orders of 2015;
- j) all of the Town and Country Planning (Development Management Procedure) (England) Orders including for the avoidance of doubt the Town and Country Planning (Development Management Procedure) (England) Orders of 2015;
- k) the Town and Country Planning Act 1971;
- l) all the Housing and Planning Acts; and
- m) any regulations, directions and/or other orders made pursuant to any of the above;

1.1.10. "undertake all action", without prejudice to the generality of the phrase includes as necessary:

- a) undertaking any inspection, site visit and/or examination;
- b) entering land, any premises and/or vehicle for the purposes of exercising any service and/or function;
- c) giving of authority including in relation to determining and authorising the attendance of any person whether an Officer or otherwise;
- d) preparing, signing, issuing and/or serving of any document including any direction, notice, licence, order, permission, permit, consent, approval, registration and/or certificate);
- e) making any determination including a decision to approve, cancel, confirm, grant, make, modify, review, refuse, renew, replace, revoke, suspend, transfer, vary and/or withdraw any documentation referred to above together with the determination of any condition, obligation, limitation, restriction and/or requirement considered necessary;

- f) conducting any review and/or appeal and/or any assessment of a similar nature;
- g) exercising any relevant power relating to analysis, certification, checking (including checking of records whether electronic or otherwise), destruction, detention, purchasing, removal, retention, sampling and/or seizure;
- h) recording information through whatever medium including photographic and/or digitally;
- i) undertaking any associated procedural action;
- j) managing any assessment process including determination of the appropriate assessment to use and the scoring of any assessment; and
- k) exercising decision and/or discretion to determine the level of and/or whether to recover any cost incurred in relation to any action.

1.2. Reference in this Scheme to:

- 1.2.1. the Monitoring Officer and the Section 151 Officer includes when the Officer is unavailable, absent or the post is vacant any deputy appointed to act on their behalf;
  - 1.2.2. any enactment, order, regulation or similar provision includes any replacement or re-enactment of it with or without modification;
  - 1.2.3. any Officer post includes an interim of that post; and
  - 1.2.4. “consulting with an Officer” includes consulting with any other person nominated by that Officer to deputise for them.
- 1.3. With the exception of the Chief Executive, unless otherwise expressly provided for in the delegation or the context otherwise requires, reference to a power delegated to a Chief Officer is only exercisable in relation to the service(s) for which the Chief Officer is responsible whether in whole or part.
- 1.4. Any provision in this Scheme requiring consultation with any Officer and/or Councillor may at any time be satisfied by that Officer or Councillor providing a written waiver on the need to consult whether in relation to a specific matter or generally and whether in relation to a specific Officer post or otherwise. Any such waiver may be made subject to any limitation and/or exception.
- 1.5. Irrespective of any other provision in the Constitution (express or implied) a power delegated to an Officer in this Scheme that overlaps with a power of any other body of the Council can also be exercised by the Officer provided that:
- 1.5.1. the delegation to the Officer does not expressly state otherwise; and/or

- 1.5.2. the Officer should normally seek the view of the Chair of the body on whether to exercise the delegation; in considering whether to seek such a view matters for the officer to consider could include any issue of urgency.
- 1.6. Notwithstanding the provision in Article 14 paragraph 4.1 of Part 2 of the Constitution, a final decision on the meaning and interpretation of the Officer Scheme of Delegations will be made by the Monitoring Officer (or in their absence the Officer responsible for Legal Services) and their view is determinative. However, no delegation in this Scheme shall be interpreted as including any power that is prohibited by law from being delegated to an officer.

## **2. Cascade of powers**

- 2.1. Save as provided for in Appendix 1 to this Scheme – RIPA, an Officer given any delegated power (whether expressly set out in this Scheme or otherwise) can nominate/authorise any other Officer(s) to exercise that power on their behalf provided that officer reports to or performs any function forming part of a service for which the nominating Officer has the whole or a partial responsibility:
  - 2.1.1. through a local scheme of delegation (which identifies various standing delegations); and/or
  - 2.1.2. through a specific nomination in relation to an individual decision which must be evidenced in writing, dated and signed by the officer making the nomination.
- 2.2. However, where a person is nominated/authorised to exercise a delegation on behalf of someone else they cannot then delegate anyone else to exercise that power as well.
- 2.3. Some powers may be delegated to an Officer directly by a Committee, Sub-Committee or other relevant arrangement (e.g. via the leader in the case of executive powers). In such cases, unless expressly limited otherwise, it shall be assumed that such a delegation includes power for the Officer to delegate any other Officer(s) to also exercise that delegation in accordance with the provisions of this Scheme.
- 2.4. Where a power has been passed to an Officer the person or body making the delegation may at any time cancel that delegation and may in any event also exercise the power despite the delegation. Where an existing delegation is cancelled the person / body making the cancellation should normally seek to inform the delegated Officer of the cancellation.
- 2.5. Any Officer who delegates the authority to exercise a power to another Officer (whether through a local scheme of delegation or otherwise) should provide the Monitoring Officer with a copy of that delegation as soon as reasonably practicable after making the nomination; however, failure to provide the Monitoring Officer with a copy of the delegation will not invalidate it.

- 2.6. The provisions of this Scheme apply not just to the Officer post to whom a power is delegated but also any Officer delegated by them to exercise the power. An Officer making a delegation should seek to draw the provisions of this Scheme to the attention of the Officer to whom the delegation is made.

### **3. General provisions relating to the exercise of powers by an Officer**

- 3.1. Powers in this Scheme are delegated to Officers by reference to their post title and therefore apply to whoever holds that post title at the time a power is exercised. An Officer post may be left vacant, combined and/or the title changed. For the purposes of this Scheme, reference to any post that is vacant, combined with any other post and/or has its name changed shall be construed as referring to the Officer post(s) which for the time being takes on the relevant responsibilities of the original post.
- 3.2. A power set out in one delegation in this Scheme may sometimes overlap with / duplicate another delegation in whole or part. In such a case each can be operated separate from the other and free of any restriction and/or limitation that specifically relates to the other delegation.
- 3.3. A power may be delegated to more than one Officer. The fact more than one Officer has been delegated / nominated the same power does not create any obligation for an Officer to consult with any of the other Officer(s) to whom the power is delegated.
- 3.4. Prior to exercising a power, an Officer should have regard to relevant matters relating to its exercise, including:
- 3.4.1. relevant provisions in the Constitution including the Financial Regulations and the Council Procedure Rules;
  - 3.4.2. any other relevant Council policies and procedures (compliance with some of which is mandatory);
  - 3.4.3. any related resolution / recommendation by or on behalf of the Council;
  - 3.4.4. the desirability of notifying the Leader / any relevant Cabinet Member (having regard to their respective portfolios) of any action which is likely to be contentious or politically sensitive. Where the Council acts as a lead authority or is part of a partnership jointly exercising functions, this could involve consulting with the appropriate Chair or partnership lead instead or in addition to the Leader / any relevant Cabinet Member;
  - 3.4.5. the need to take advice / seek the views of any other person (which might include another Officer or a Councillor) that would be appropriate;

- 3.4.6. ensuring the Monitoring Officer / Chief Financial Officer (as appropriate) are consulted / advised on any potential decision likely to give rise to governance/ financial probity issues;
  - 3.4.7. ensuring appropriate due diligence where this should be undertaken in relation to the exercise of a power;
  - 3.4.8. any risks in accordance with the Council's Risk Management Strategy;
  - 3.4.9. ensuring appropriate liaison / communication on cross service issues;
  - 3.4.10. the need to undertake appropriate consultation where required by legislative provision or it is identified as relevant to the exercise of a power; and
  - 3.4.11. any staffing, legal and financial implications including the need to secure value for money.
- 3.5. Where the proposed exercise of a power is one where the Leader ought to be consulted and the Leader is absent, unavailable or no Leader has been appointed then the Deputy Leader can be consulted. Similarly, in the absence of the Chair of a Committee the Vice-Chair can be consulted. In the absence of a Cabinet Member the Leader can be consulted as an alternative.
- 3.6. Nothing in this Scheme shall prevent an Officer from deciding not to exercise a power and referring it to some other body / Councillor who also has power to exercise it. In deciding whether to refer on a decision an Officer should in particular have regard to any view expressed by the Leader or Executive Member with whom they have liaised in relation to the proposed exercise of the power.
- 3.7. An officer making a delegated decision shall arrange to ensure that an appropriate record is kept and retained in accordance with the decision-making principles and procedures contained within this Constitution.

#### **4. General limitations relating to the exercise of powers by an Officer**

- 4.1. Unless a delegation expressly provides otherwise the limitations set out in the Financial Regulations and the Employment Powers apply to every delegation contained in this Scheme.

#### **5. Regulation of Investigatory Powers**

- 5.1. Appendix 1 of this Scheme contains provisions relating to the Council's policy under the Regulation of Investigatory Powers Act and the delegation of various powers in relation to it.

## **6. Proper Officer**

- 6.1. Appendix 2 of this Scheme makes provision relating to the identification of various Proper Officers for the purposes of relevant legislative provisions.

## **7. Member and Officer Indemnities**

- 7.1. Appendix 3 of this Scheme sets out indemnity provisions adopted by the Council in relation to its Councillors and Officers.

<b>Delegations to All Officers</b>	
<b>Ref</b>	<b>Delegation</b>
1	To act as a witness: <ul style="list-style-type: none"> <li>(a) on behalf of the Council in any proceedings in which the Council is directly involved; and/or</li> <li>(b) where so directed by a court, tribunal, hearing or other inquiry with power so to do; and/or</li> <li>(c) in any other circumstance with the prior written approval of the Monitoring Officer.</li> </ul>
2	To undertake all action relevant to that Officer that is required by or identified in the Financial Regulations as applicable to that Officer.
3	To undertake all action relevant to any matter to which an Officer is given a role, power or activity pursuant to any provision set out in the Constitution including any of the appendices to this Scheme.

<b>General Operational Delegation to the Chief Executive</b>	
<b>Ref</b>	<b>Power</b>
4	To undertake all action relating to the operation of any of the Council's services including incurring expenditure from working balances and/or reserves provided that: <ul style="list-style-type: none"> <li>(a) any such action will not result in the overall budget for any individual service being exceeded unless the Section 151 Officer confirms that any overspend can be offset against working balances and/or other service underspends;</li> <li>(b) the Section 151 Officer gives approval; and</li> <li>(c) where they consider it appropriate and feasible to do so, there has been prior consultation with any relevant Chief Officer(s).</li> </ul>

<b>General Operational Delegations to each Chief Officer excluding the Chief Executive</b>	
5	To undertake all action relating to the operation of Council's services for which they are responsible in whole or part provided any such action will not result in the overall budgets for which the Chief Officer is responsible in whole or part being exceeded.
6	If at any time the Chief Executive is absent, unavailable or the post of Chief Executive is vacant, to exercise any power whether specified in this Scheme or otherwise delegated to any other Officer unless expressly prohibited by law irrespective of whether it relates to a service for which the Chief Officer is responsible.

<b>General Human Resource Delegations to each Chief Officer</b>	
<b>Ref</b>	<b>Power</b>
7	To determine whether to appoint any Officer (excluding the posts of Chief Executive and any Chief Officer) within approved structures and budgets.
8	<p>To exercise the day-to-day management of Officers including matters relating to:</p> <ul style="list-style-type: none"> <li>(a) health and safety;</li> <li>(b) any capability, disciplinary and/or dismissal issue;</li> <li>(c) any grievance issue; and/or</li> <li>(d) any other personnel related issue.</li> </ul>

<b>Specific delegations to the Chief Executive</b>	
<b>Ref</b>	<b>Power</b>
9	To undertake all action related to the role of Head of Paid Service.
10	To exercise any power whether specified in this Scheme or otherwise delegated to any other Officer unless expressly prohibited by law.
<b>Emergency</b>	
11	<p>In a situation that they consider to be an emergency, to undertake all action they consider necessary, including:</p> <ul style="list-style-type: none"> <li>(a) incurring expenditure from working balances and/or reserves,</li> <li>(b) to determine whether to take, defend and/or settle any legal proceedings;</li> <li>(c) to make a final determination whether to acquire and/or dispose of building and/or land,</li> </ul> <p>subject to consultation with the Section 151 Officer to the extent they consider it appropriate and feasible, and to notifying any emergency action as soon as reasonable to the Leader. For the purposes of exercising this power, all restrictions and/or limitations in the Employment Powers and in the Financial Regulations including the Financial Powers and the Procurement and Contract Procedure Rules are deemed waived and any decision may be made regardless of whether it is a Key Decision (see Procedure Rules for publication of urgent key decision).</p>
<b>Governance</b>	
12	To determine appointments to any statutory panels.
13	To approve Councillor's attendance at any conference and the payment of any expense or allowance in accordance with the adopted scheme of member allowances as set out in this Constitution.
14	To summon a meeting of the Council.
15	To undertake all action in connection with the arrangement of civic and ceremonial functions.



<b>Human Resource matters</b>	
16	To deal with all matters relating to the paid employment of Council officers.
17	To determine any change to the whole or any part of the employee establishment / structure of the Council including power to incur expenditure subject to prior consultation with the Section 151 Officer.
18	To determine the composition of any panel required to consider any employee issue, subject to consultation with the Officer responsible for Human Resources.
19	To determine the grading and regrading of posts provided that funding for any associated costs is available.
<b>Officer Designations</b>	
20	To designate an Officer as an authorised officer to exercise the Council's powers under any statutory provisions, subject to any legal requirement that Council approval is required.
21	To undertake all action to ensure the effective delivery of the Council's emergency planning function subject to the prior consultation with the Section 151 Officer to the extent it will result in expenditure from working balances or reserves.
<b>Operational Decisions</b>	
22	To publish notices as required on behalf of the Council under any legislation except where this is specifically delegated by this Scheme or reserved by law to another Chief Officer or other named Officer.
23	To undertake all action to comply with health and safety legislation including the power to incur expenditure from existing balances or reserves subject to the approval of the Section 151 Officer.
24	<p>To the extent it is not covered by Appendix 2 of this Scheme to be the Proper Officer and the person authorised to carry out any function or action described in:</p> <ul style="list-style-type: none"> <li>(a) any regulations relating to referendums, petitions and/or directions;</li> <li>(b) the Criminal Procedure and Investigations Act 1996 relating to the appointment of Disclosure Officers;</li> <li>(c) any other legislative provision; and/or</li> <li>(d) the Constitution not otherwise specifically delegated to another Officer, including the power to appoint or nominate any other Officer to act.</li> </ul>
25	To sign any Council document not otherwise covered by this Scheme.
26	To determine the content and be responsible for any publication scheme (including determining any charges) under freedom of information and/or data protection legislation.
27	Subject to prior consultation with at least one Executive Member, to determine whether to close any of the Council offices for reasons of efficiency around Christmas and New Year or any other bank holiday

	period.
<b>Proper Officer</b>	
28	To appoint any Officer to be a Proper Officer for the purposes of any function of the Council.

**Delegations to each Chief Officer and Duty Gold and Silver Officers in relation to a declared emergency or major incident**

Ref	Power
29	<p>To undertake all action, including committing such resources and suspending any aspect of business as usual as they consider appropriate whether from a service for which they are responsible or otherwise, to meet what they consider to be the Council's responsibilities and duties in relation to a declared emergency or major incident provided that:</p> <ul style="list-style-type: none"> <li>(a) any financial expenditure shall not exceed any relevant limit set out in the Council's Emergency Response Plan;</li> <li>(b) all decisions are made on best advice available to the decision maker at the time and on the basis that the decision is a reasonable one in the circumstances;</li> <li>(c) notification of any decision taken is given to the Leader, the Deputy Leader any relevant Executive Member, the Chief Executive, the Monitoring Officer and the Section 151 Officer as soon as reasonably practicable; and</li> <li>(d) a schedule of decisions is reported as soon as reasonably practicable to a meeting of Cabinet.</li> </ul> <p>For the purposes of exercising this power, all restrictions and/or limitations in the Employment Powers and in the Financial Regulations including the Financial Powers and the Procurement and Contract Procedure Rules are deemed waived and any decision may be made regardless of whether it is a Key Decision (see Procedure Rules for publication of urgent key decision).</p>

**Delegations to each Chief Officer**

**Communications**

30	To determine whether to authorise the release of information or other documentation to the press, any member of the public or external body.
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**Complaints**

31	To undertake all action in connection with the preparation and issuing of any information and/or response to a complaint against the Council made pursuant to the Council's formal complaints procedure or Ombudsman complaint.
32	<p>To resolve a complaint, including the approval of compensation in respect of:</p> <ul style="list-style-type: none"> <li>(a) any complaint made through the Council's complaint procedure;</li> </ul>

	and/or (b) any finding of maladministration by the Local Government and Social Care Ombudsman, including the power to incur expenditure from working balances and /or reserves subject to prior approval of the Section 151 Officer.
33	Subject to prior consultation with the Monitoring Officer to settle any claim or potential claim made by or against the Council in a sum not exceeding £50,000 including power to authorise expenditure from working balances and/or reserves subject to the prior approval of the Section 151 Officer.
<b>Financial</b>	
Please refer to Part 5 (Financial Regulations) of the Constitution for responsibilities, powers and delegations	
<b>Governance</b>	
34	To sign off and/or approve a report or item to go to any body of the Council and/or any other body of which the Council is part.
<b>Operational Decision Making</b>	
35	To undertake all action to give effect to any decision of or on behalf of the Council.
36	To instruct / appoint and/or authorise any external person (including any consultant) or body (excluding legal professionals) to undertake work and/or act for and/or on behalf of the Council in respect of any matter (including at any legal proceedings, tribunal, hearing, inquiry or similar body) relating to any work undertaken by any service for which the Chief Officer is responsible in whole or part and/or to which they are providing support.
37	To determine whether to enter and to enter into any contract or agreement for works, services and/or supplies, including all terms, provided that: <ul style="list-style-type: none"> <li>(a) any expenditure incurred can be met from a relevant budget; and,</li> <li>(b) the process followed is in accordance with the Procurement &amp; Contract Procedures.</li> </ul>
38	To undertake all action relating to any matter arising in respect of any appeal, call-in, inquiry and/or hearing of whatever nature to which the Council is party including: <ul style="list-style-type: none"> <li>(a) to determine any procedural issue and any response to a procedural issue relating to any such matter including the Council's preferred format and venue of any such matter where any discretion exists; and</li> <li>(b) to determine whether or not to defend the whole or any part of the proceedings / Council's reason(s) in respect of which the appeal etc is taking place.</li> </ul>
39	To determine whether or not to support a bid by any organisation for any external grant/funding provided that any such support will not result in the overall budget for which the Chief Officer is responsible being exceeded.

40	To enter into an agreement with any voluntary agency, charity or public sector organisation, where the Council has or is proposing to offer financial and/or other assistance to that body, provided that no agreement shall commit the Council to utilise resources that are not available for this purpose and there is relevant insurance provision in place.
41	To determine the terms of and enter into agreements with any organisation to place staff at the disposal of that organisation.
42	To administer the supply of goods, works and/or services to any external person/body.
43	To undertake all action in connection with any application to the Council for a grant in respect of which they have been given a budget provided that any expenditure incurred can be met from that budget.
44	To determine whether and how to respond on behalf of the Council to any local, county, sub-regional, regional or national consultation on matters affecting the Council subject to prior consultation with an Executive Member where it relates to an Executive function.
45	To determine whether to approve (with or without modification) or refuse any draft plan and/or strategy for public consultation subject to prior consultation with an Executive Member (where it relates to an Executive Function) and to undertake all action associated with any such public consultation.
46	To determine whether to enforce and to take any steps to enforce the terms of any agreement, contract, licence, lease or any other legal instrument to which the Council is a party.
47	<p>To:</p> <ul style="list-style-type: none"> <li>(a) make any planning application and/or any other application under any Town and Country Planning Legislation provided that in both cases: <ul style="list-style-type: none"> <li>(i) there is prior consultation with the Chief Operations Officer; and</li> <li>(ii) no such application will result in the overall budgets for which the Chief Officer is responsible being exceeded; and/or</li> </ul> </li> <li>(b) provide a consultation response to any application under any Town and Country Planning legislation.</li> </ul>
48	<p>In respect of any application submitted to the Council to undertake all action in relation to:</p> <ul style="list-style-type: none"> <li>(a) its administration and processing;</li> <li>(b) its determination; and or</li> <li>(c) the administration, processing and determination of any matter consequent on any permission, consent, approval and/or other determination resulting from any such application.</li> </ul>
49	To undertake all action for the purpose of investigating and/or enforcing

	<p>(including authorising any court proceedings) any:</p> <ul style="list-style-type: none"> <li>(a) actual, perceived or potential breach of any statutory provision; and/or</li> <li>(b) consent, authorisation, permit, registration, certificate, license, notice, order, permission or other document of a similar nature (including any condition, obligation, restriction, limitation or any other provision) given, issued or made by the Council,</li> </ul> <p>provided that court proceedings should only be authorised after prior consultation with the Monitoring Officer</p>
50	To undertake any inspection of land and/or buildings and/or exercise any related powers of entry including power to undertake all action as a consequence of the inspection but excluding authorising the initiation of any formal court proceeding unless there has been prior consultation with the Monitoring Officer.
51	<p>To undertake all action in connection with the issuing and serving of any notice for the purposes of securing information relating to any function of the Council, including any notice:</p> <ul style="list-style-type: none"> <li>(a) under Local Government (Miscellaneous Provisions) Act 1976; and</li> <li>(b) relating to any town and country planning function of the Council.</li> </ul>
52	To issue any licence or control any registration of persons or premises on behalf of the Council under any legislation except where this is specifically reserved by law to a specific Chief Officer or other named Officer.
53	<p>To authorise any Officer that they consider appropriate:</p> <ul style="list-style-type: none"> <li>(a) to carry out any inspection and/or examination;</li> <li>(b) to carry out any action arising during and/or out of any inspection and/or examination (including analysis, certification, checking, destruction, detention, measurement, purchasing, sampling, seizure and/or testing);</li> <li>(c) to exercise any power of entry available to the Council;</li> <li>(d) to issue any document relating to an inspection and/or examination including any notice;</li> <li>(e) to serve any document;</li> <li>(f) to undertake any work in default and/or supervision or management of such work;</li> <li>(g) to undertake any enforcement activity; and/or</li> <li>(h) to seek a warrant,</li> </ul> <p>provided that in all cases the Chief Officer believes that any cost associated with the authorisation can be met from within their existing budget and/or the prior approval of the Section 151 Officer is obtained.</p>
54	<p>To appoint/authorise any Officer and any other person undertaking any task for or on behalf of the Council to be:</p> <ul style="list-style-type: none"> <li>(a) an inspector;</li> </ul>

	<p>(b) an authorised officer; and/or</p> <p>(c) an enforcement officer,</p> <p>including power to authorise any such Officer/person to undertake all action relevant to the performance of such a role in relation to any service and/or function of the Council.</p>
55	<p>To undertake all action in connection with any fixed penalty notice, including:</p> <p>(a) to determine any relevant content; and/or</p> <p>(b) to determine whether or not to issue a notice,</p> <p>but excluding authorising the initiation of any formal court proceedings.</p>
56	<p>Subject to prior consultation with the Monitoring Officer to determine whether to issue a caution of whatever nature as an alternative to undertaking any prosecution.</p>
57	<p>To authorise and take action to secure a warrant.</p>
58	<p>To monitor, store, archive and/or destroy Council documentation provided this accords with the Council's relevant document retention and destruction policies.</p>
59	<p>To undertake all action in connection with the receipt of any expression of interest in relation to the community right to challenge. This power includes the power to receive and validate any expression of interest, provided that:</p> <p>(a) in making a decision whether to accept or reject an expression of interest there has been prior consultation with appropriate Executive Members and applicable ward councillors; and</p> <p>(b) the expression of interest is reported to Full Council / in accordance with Executive arrangements within three months of receipt.</p>
60	<p>To undertake all action in connection with a request for the release of information pursuant to:</p> <p>(a) any freedom of information legislation;</p> <p>(b) any environmental information legislation;</p> <p>(c) any data subject access request; and/or,</p> <p>(d) any other legislation.</p>
61	<p>To undertake all action relating to the entering into of any short-term lease and/or letting arrangement in respect of any land or building for a term not exceeding 6 months including the agreement of any terms associated with such an arrangement provided that:</p> <p>(a) they consider it is necessary in relation to the discharge of a function; and</p> <p>(b) any cost associated with any such transaction can be met from within existing budgets for which the Chief Officer is responsible.</p>
<b>People Management</b>	
62	<p>To determine changes to the number and distribution of posts for which they are responsible subject to financial provision for the current and future</p>

	years being available. Where changes are proposed to the Chief Officer structure a report to the Chief Executive will be required before any such changes are implemented. All other changes to structures remain delegated to Chief Officers.
63	To determine changes to the grading of posts taking account of job evaluation outcomes for posts covered by job evaluation schemes provided that funding for any associated existing and future cost is available and any such change does not conflict with the Employment Powers.
64	To determine whether to make an individual's post redundant, or agreeing to an individual's early retirement, subject to: <ul style="list-style-type: none"> <li>(a) the approval of the relevant committee in respect of the award of discretionary payments in cases which involve the early introduction of pension benefit where this is required by any relevant HR policy;</li> <li>(b) funding associated with any redundancy payment being available; and</li> <li>(c) this does not conflict with the Employment Powers.</li> </ul>
65	To determine whether to authorise and sign an identity card of any Officer (including any inspector, authorised officer, enforcement officer and/or other person undertaking work for or on behalf of the Council) necessary for the proper performance of that Officer's duties.
<b>Regulation of Investigatory Powers (RIPA)</b>	
66	To exercise the role of authorising officer and designated person as set out in Appendix 1.
<b>Signing Documents</b>	
67	To: <ul style="list-style-type: none"> <li>(a) sign any document; and / or</li> <li>(b) affix and attest the Council seal to any order, deed or other document, to give effect to any decision of or on behalf of the Council.</li> </ul>
<b>Urgency</b>	
68	In any case that they consider to be urgent, to undertake all action for the purposes of discharging any function and/or delivering any service (including power to authorise the seeking of an injunction / progressing an action for contempt), provided that: <ul style="list-style-type: none"> <li>(a) there is prior consultation with the Monitoring Officer;</li> <li>(b) there is consultation with such Executive Member or Chair of an appropriate Committee as they consider is appropriate in the time available; and,</li> <li>(c) to the extent it will incur expenditure from working balances and/or reserves, there is the prior approval of the Section 151 Officer.</li> </ul> <p>For the purposes of exercising this power, all restrictions and/or limitations in the Employment Powers and in the Financial Regulations including the Financial Powers and the Procurement and Contract Procedure Rules are</p>



	deemed waived and any decision may be made regardless of whether it is a Key Decision. Any action taken in this way shall be reported to the next meeting of Cabinet and Full Council.
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**Specific delegations of particular relevance to the Section 151 Officer / Director - Finance**

Please refer to Part 5 (Financial Regulations) of the Constitution for responsibilities, powers and delegations

**Specific delegations of particular relevance to the Monitoring Officer / Director – Law and Governance**

Ref	Delegation
<b>Councillor</b>	
69	In accordance with any Council scheme and/or policy (if any) to determine whether to authorise the payment of any member allowance and/or expense.
70	Subject to consultation with the Chair of Council to determine whether to approve any expenditure on civic hospitality.
71	To authorise any Councillor attendance at a conference, session and/or workshop.
<b>Governance</b>	
72	To undertake all action in connection with the provision of reasons and responses to representations in relation to the holding of private meetings.
<b>Legal</b>	
73	To authorise, institute, defend, appear in and settle any legal proceedings or possible legal proceedings (including any appeal, review of similar proceedings against any action or proceedings in any tribunal, inquiry, hearing or other forum of legal proceedings) by or on behalf of the Council, together with power to undertake all preliminary or further work as they consider appropriate.
74	To authorise any officer of the Council to appear in any court or tribunal.
75	To instruct/appoint and/or authorise any person (including counsel and/or any consultant) or body to undertake work and/or act for and/or on behalf of the Council in respect of any legal issue (including any legal proceedings, tribunals, hearings and/or inquiries) relating to the Council including whether to outsource any legal work.
76	Subject to such initial prior consultation with a person from the Estates Unit as they consider appropriate to undertake all action in respect of any trespass on Council owned land including action to secure the cessation of the trespass and/or to seek to prevent its recurrence.
77	To undertake all action in connection with the preparing and/or issuing of



	<p>any:</p> <ul style="list-style-type: none"> <li>(a) licence, lease, transfer and/or, conveyance concerned with the acquisition and/or disposal of any interest in land or property; and/or</li> <li>(b) easement and/or wayleave,</li> </ul> <p>including in consultation with the Estates Unit, determining any rent level, fee and all other terms associated within any such document.</p>
78	<p>To undertake all action in connection with the preparing and/or issuing of any contract, notice, order, permit, certificate, requisition or other document including any:</p> <ul style="list-style-type: none"> <li>(a) byelaw;</li> <li>(b) contract relating to the supply of any good and/or service;</li> <li>(c) order for the control of drinking in public places and/or a public spaces protection order;</li> <li>(d) notice and/or order relating to any vehicle;</li> <li>(e) stop notice;</li> <li>(f) temporary stop notice;</li> <li>(g) road closure; and</li> <li>(h) application for late night shopping.</li> </ul>
79	<p>To undertake all action in connection with the recovery of any actual or perceived proceeds of crime, whether under the powers of the Proceeds of Crime Act 2002 or otherwise, including any necessary preliminary and subsequent action to secure and then progress the outcome of any determination, provided that there is initial consultation with an Executive Member as to whether or not to pursue any related application.</p>
80	<p>In consultation with such Chief Officers as they consider appropriate (if any) to determine whether to accept or reject (and whether or not subject to conditions) any purchase notice served on the Council pursuant to any Town and Country Planning Legislation if a decision is required before the next normal meeting of a councillor body with power to determine such matters.</p>
81	<p>To determine whether to issue or withhold any consent or approval under the terms of any lease, conveyance or other document including power to determine whether or not to issue any certificate or other document in relation to the provisions of any planning obligation together with power to undertake all actions to give effect to and as a consequence of any determination.</p>
<b>Monitoring officer</b>	
82	<p>To exercise all statutory powers of the monitoring officer of the Council.</p>
83	<p>To determine whether to grant a dispensation in respect of any disclosable pecuniary interest or other registerable interest.</p>
84	<p>To:</p> <ul style="list-style-type: none"> <li>(a) dismiss any such complaint that is trivial or concerns conduct that would not be a breach of the relevant Council's code of conduct;</li> </ul>

	and/or (b) to refer any complaint concerning a failure to disclose a disclosable pecuniary interest to the police without further reference.
<b>Referendums</b>	
85	To make arrangements for (including the holding of) any referendum.
<b>Registers</b>	
86	To determine any application to amend the register of common land and town and village greens (except applications to register or de-register land as common land and town and village greens).
<b>Signing and Sealing</b>	
87	To sign and issue any certificate confirming the Council's power to enter into a contract where this is legally required.

<b>Specific Delegations of particular relevance to the Chief Operations Officer</b>	
<b>Ref</b>	<b>Power</b>
<b>General</b>	
88	<p>To undertake all action relating to:</p> <ul style="list-style-type: none"> <li>(a) the acquisition or disposal of any land or building; and/or</li> <li>(b) any grant and/or termination of any lease or licence for any land or building;</li> <li>(c) any other transaction associated with any land or building, provided that in all cases: <ul style="list-style-type: none"> <li>(i) the sum of money associated with any such acquisition, disposal or other transaction (including termination) does not exceed £500,000; and</li> <li>(ii) all costs associated with any such transaction can be met from within a budget available for such purposes.</li> </ul> </li> </ul>
<b>Highways / public rights of way / public access</b>	
89	<p>To undertake all action relating to the regulation of highways, public rights of way and/or public access including:</p> <ul style="list-style-type: none"> <li>(a) the processing, administration and determination of any application or request arising in relation to any such matter; and/or</li> <li>(b) the making of any order relating to any highway, public right of way and/or public access in the area of the Council including any order under: <ul style="list-style-type: none"> <li>(i) the Highways Act 1980; and/or</li> <li>(ii) the Road Traffic Regulation Act 1984;</li> </ul> </li> <li>(c) the referral of appropriate permanent or experimental traffic regulation orders to the Transportation Advisory Group, where, following consultation with the relevant Portfolio Holder, it is considered that there are significant or contentious objection(s) received during the statutory consultation period.</li> </ul>

<b>Licensing</b>	
90	To undertake all action in connection with any application (including any application to grant, review, transfer, vary, remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Licensing Act 2003 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 10 Licensing Act 2003 or otherwise cannot be discharged by an Officer.*
91	To undertake all action in connection with the submission of any scheme, details and/or other matter pursuant to any licence, notice, permission, consent, approval or other determination issued by or on behalf of the Council pursuant to the Licensing Act 2003 or the Gambling Act 2005.*
92	To prepare and issue reports on behalf on the Licensing Committee where a matter relates to a licensing function under the Licensing Act 2003 or the Gambling Act 2005 and is necessary to facilitate the exercise of another function of the Council.*
93	To undertake all action in connection with any application (including any application to grant, review, transfer, vary remove, cancel or renew), notice and any other matter (including any actual or potential enforcement issue) arising in respect of the Gambling Act 2005 including power to determine whether a representation is a “relevant representation” for the purposes of the Act, but excluding any matter whether by virtue of section 154 Gambling Act 2005, section 10 Licensing Act 2003 (as it applies to the Gambling Act) or otherwise cannot be discharged by an Officer.*
<p>* Delegations to Officers in relation to the Licensing Act 2003 and the Gambling Act 2005 rest with the Licensing Committee.</p> <p>For the avoidance of doubt:</p> <ul style="list-style-type: none"> <li>(a) references to the Licensing Act 2003 and the Gambling Act 2005 include any regulations, directions and/or other orders made pursuant to either of them; and</li> <li>(b) all interpretation and other provisions set out in the Introduction and General provisions sections at the start of the Officer Scheme of Delegations shall apply equally to these delegations including powers relating to nomination.</li> </ul>	
<b>Planning</b>	
94	<p>To undertake all action relating to any matter arising in relation to any Town and Country Planning Legislation including in respect of any application submitted to the Council under any Town and Country Planning Legislation power to undertake all action in relation to:</p> <ul style="list-style-type: none"> <li>(a) the administering and processing of any such application including: <ul style="list-style-type: none"> <li>(i) any application submitted wholly or partly under section 73 and/or section 73A of the Town and Country Planning Act 1990;</li> <li>(ii) any application for listed building consent;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>(iii) any application for permission in principle and/or technical detail consent;</li> <li>(iv) any reserved matter application; and/or</li> <li>(v) any certificate of lawful use,</li> </ul> <p>(b) the determination of any such application including whether to require / impose any condition, obligation, limitation and/or any other restriction and/or requirement in respect thereof but excluding the determination of any such application that is expressly identified as being the responsibility of the Planning Committee in Part 3, Section 2 of the Constitution; and/or</p> <p>(c) the administration, processing and determination of any matter consequent on any permission, consent, approval and/or other determination arising from such an application including determining any information provided pursuant to any condition or obligation.</p>
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<b>Specific Delegations of particular relevance to the Corporate Director – Children’s Services</b>
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Ref	Power
95	To be the director of children’s services for the purposes of exercising all functions identified in section 18 of the Children Act 2004 and any relevant regulations which must or may be made the responsibility of that post including power to undertake all action in relation not all such functions
96	To determine whether to approve any school governor appointment for which the Council has responsibility.

<b>Specific delegations of particular relevance to the Shared Director of Public Health</b>
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Ref	Power
97	To be the statutory director of public health for the purposes of exercising all functions identified as being the responsibility of that post in section 73A of the National Health Service Act 2006 and any relevant regulations.
98	To determine any expenditure from the Public Health Grant.
99	In addition to the delegated powers above, the Shared Director of Public Health shall also have all delegated powers given to that post by Dorset Council.

# Appendix 1 - Regulation of Investigatory Powers Act 2000 (RIPA)

## 1. Introduction

- 1.1. The Council maintains a RIPA policy that includes identification of Officers employed within the Council appointed to roles identified with that policy. Officers appointed to such roles have power to undertake all action ascribed to those roles in any relevant legislation and any policy adopted by the Council in relation to RIPA.
- 1.2. Notwithstanding any other provision in this Scheme an Officer who is identified in any relevant RIPA policy to authorise surveillance cannot nominate any other Officer to exercise the power on their behalf.

## 2. Delegations

- 2.1. Any Officer employed by the Council or any partner of the Council who is appointed to undertake the role of RIPA Officer on behalf of the Council shall have power to undertake all action to update the RIPA policy at any time to reflect changes to Officers appointed to roles within the RIPA policy.
- 2.2. In the absence of any Officer being identified in a RIPA policy to authorise surveillance the following Officers shall be able to exercise such a power to the extent identified.

<b><u>Post</u></b>	<b><u>Purpose of Authorisation</u></b>
Chief Executive	All purposes (including where there is a likelihood of acquiring confidential information)
Monitoring Officer	All purposes (including but only in the absence of the Chief Executive where there is a likelihood of acquiring confidential information)
Chief Operations Officer	All purposes for services for which they are wholly or partly responsible (but excluding where there is a likelihood of acquiring confidential information)

## Appendix 2 - Proper Officer

### 1. Proper Officer Functions

- 1.1. Various legislative provisions provide for certain functions to be performed by a "Proper Officer". The table below sets out Officers appointed as "Proper Officer" for the different identified purposes.
- 1.2. For the purposes of interpreting the table, where:
  - 1.2.1. more than one Officer is identified, then the first named Officer shall have primary responsibility to act as Proper Officer; however, the other named Officers may still act for and on behalf that person as Proper Officer including in particular when the first named Officer is absent or is for any other reason unable to perform the role at the appropriate time; and
  - 1.2.2. the legislation identifies the need to make proper arrangements the Officer identified shall have the primary responsibility for seeking to secure such arrangements.
- 1.3. In the absence of an Officer being identified as a Proper Officer for any specific provision then the Chief Executive shall be the Proper Officer in respect of that provision provided that, unless the law otherwise requires, the Chief Executive may at any time appoint another Officer to be the Proper Officer for the purpose of any function.
- 1.4. To the extent that any Officer is nominated or delegated the exercise any power relating to a Proper Officer function whether by way of express or by virtue of the exercise of any provision in the Constitution then that Officer shall be deemed to be appointed as a Proper Officer for the purposes of that function whether or not that Officer is also identified as being such a Proper Officer in the table below but subject as may be provided for in any such nomination or delegation.

Legislative provision	Function	Proper Officer
<b>Registration Service Act 1953</b>		
All	All Proper Officer purposes identified in the legislation	Director of Law and Governance; Chief Executive
<b>Local Government Act 1972</b>		
Section 13	Parish Meeting	Chief Executive
Section 83	Witness and receipt of Declaration of Acceptance of Office	Chief Executive; Director of Law and Governance
Section 84	Resignation from elected office	Chief Executive
Section 88	Arranging a Council meeting to appoint the Chair	Chief Executive

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
Section 89	Notice of casual vacancy in office of councillor	Chief Executive; Director of Law and Governance
Section 100(B) (2)	Designation of reports "not for publication" to the press and public	Chief Executive All Tier 2 and Tier 3 officer posts
Section 100(B) (7)	Supply of copies of documents	Director of Law and Governance
Section 100(C)	Written summary of the proceedings at Committees and Sub-Committees	Director of Law and Governance
Section 100(D)	Background papers	Chief Executive All Tier 2 and Tier 3 officer posts
Section 100(F)	Exempt information	Chief Executive All Tier 2 and Tier 3 officer posts
Section 115	Receipt of money due from officers	Section 151 Officer
Section 137A	Provision of report or accounts	Section 151 Officer
Section 146	Declarations and certificates with regard to transfer of securities	Section 151 Officer
Section 151	Proper administration of the Council's financial affairs	Section 151 Officer
Section 191	Officer to whom an application under s1 of the Ordnance Survey Act 1841 will be sent	Chief Executive
Section 225	Deposit of documents	Chief Executive All Tier 2 officer posts
Section 229	Certification of photographic copies of documents	Director of Law and Governance; Chief Executive and all other Tier 2 officer posts
Section 234	Signing/ Authentication of Documents	Director of Law and Governance; All other Tier 2 officer posts
Section 236	Sending of byelaws	Director of Law and Governance
Section 238	Certification of byelaws	Director of Law and Governance
Section 248	The roll of Freemen	Chief Executive; Director of Law and Governance
Schedule 12	Issues relating to Council meetings	Chief Executive; Director of Law and Governance and any other person identified for such purpose in the Constitution

<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
Schedule 14	Certification of resolution for legal proceedings	Director of Law and Governance
<b>Local Government Act 1974</b>		
Section 30	Receipt of Ombudsman reports	Director of Law and Governance; Chief Executive
<b>Local Government (Miscellaneous Provisions) Act 1976</b>		
Section 41(1)	Certify copies of evidence of resolutions and minutes of proceedings	Director of Law and Governance
<b>Rent Agriculture Act 1976</b>		
Schedule 4	Provision of certificate of alternative accommodation	Chief Executive and all Tier 2 officer posts
<b>Rent Act 1977</b>		
Schedule 15 Part (iv)	Provision of certificate of suitable alternative accommodation	Chief Executive and all Tier 2 officer posts
<b>Representation of the People Act 1983</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive
<b>Public Health (Control of Disease) Act 1984</b>		
All	All Proper Officer purposes identified in the legislation	Chief Operations Officer
<b>Building Act 1984</b>		
Section 78	Giving of notice and taking such steps as are necessary to remove danger in respect of any dangerous building or structure	Chief Operations Officer; Director of Law and Governance
<b>Local Government and Housing Act 1989</b>		
Section 2	Deposit of list of politically restricted posts	Corporate Director - Resources
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive; Director of Law and Governance; Head of Democratic Services
<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive Corporate Director - Resources



<b>Legislative provision</b>	<b>Function</b>	<b>Proper Officer</b>
<b>Local (Principal Area) (England and Wales) Rules 2006</b>		
All	All Proper Officer purposes identified in the legislation	Chief Executive; Director of Law and Governance; Head of Democratic Services
<b>Localism Act 2011</b>		
Section 33	Grant of dispensation	Officer appointed to the post of Monitoring Officer; Chief Executive

## Appendix 3 - Councillor and Officer Indemnities

### 1. Interpretation

1.1. For the purpose of these indemnities and undertaking:

- 1.1.1. "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court in the United Kingdom;
- 1.1.2. "Councillor" means an elected councillor of the Council at the time of any neglect, act, error or omission;
- 1.1.3. "failing to act" / "failure to act" / "failure" (or any similar phrase) includes any failure to act and/or any omission;
- 1.1.4. "Officer" means a person employed by the Council at the time of the neglect, act, error or omission, but does not include a person undertaking work for the Council through an agency or a person performing a service under a contract with the Council for the provision of that service other than a contract of employment directly with the Council; and
- 1.1.5. in relation to a Councillor or Officer acting or failing to act "in their capacity as a Councillor or Officer of the Council" means any action and/or failure to act which:
  - a) was authorised by the Council; and/or
  - b) formed part of, or arose from any powers conferred, or duties placed, upon the Councillor or Officer, as a consequence of any function being exercised by that Councillor or Officer (whether or not when exercising that function they did so as a Councillor or Officer of the Council):
    - i. at the request of, or with the approval of the Council; and/or
    - ii. for the purposes of the Council,including in either case:
  - c) where the Councillor or Officer in question at the time when they acted and/or failed to act:
    - i. reasonably believed that the action, or failure to act, was within the powers of the Council; and/or
    - ii. where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps had been taken and/or requirements fulfilled,

the Councillor or Officer reasonably believed that the contents of that statement was true; and/or

- d) any action and/or omission beyond the power of the Councillor or Officer in question but only to the extent that the Councillor or Officer reasonably believed the act and/or omission was within their powers at the time when they acted.

- 1.2. These indemnities and undertakings shall apply during a Councillor's term of office or an Officer's employment by the Council, to any act or failure to act and shall continue to apply after the Councillor or Officer has ceased to be a Councillor or Officer of the Council.

## **2. Indemnity for loss or damage**

- 2.1. Subject to the provisions in paragraph 3, the exclusions in paragraph 4 and to the terms in paragraph 5, the Council will indemnify all its Councillors and Officers against any loss or damage suffered by a Councillor or Officer (including any award of costs and/or damages against the Officer or Councillor), in relation to any action of and/or failure to act by the Councillor or Officer in question in their capacity as a Councillor or Officer of the Council.

## **3. Indemnity for civil and criminal proceedings**

- 3.1. The Council will, subject to paragraphs 3.2, 3.3 and 3.4 and to the exclusions and terms in paragraphs 4 and 5, indemnify all its Councillors and Officers against the reasonable costs which they may incur in securing appropriate legal advice and representation in respect of any actual or prospective civil or criminal proceedings arising from their act or failure to act in their capacity as a Councillor or Officer of the Council.
- 3.2. The indemnity in paragraph 3.1 applies for the defence of defamation proceedings by a Councillor and Officer subject to the alleged statement being made in the Councillor's capacity as a Councillor of the Council or the Officer's capacity as an Officer of the Council; but not for the bringing of defamation proceedings.
- 3.3. The indemnity in paragraph 3.1 is subject to a condition that if the Councillor or Officer is convicted of a criminal offence in consequence of such proceedings and the conviction is not overturned on appeal, the Councillor or Officer shall reimburse the Council for any sums expended by the Council under this indemnity in relation to those criminal proceedings and the Councillor or Officer shall, if required by the Council, sign an agreement confirming this before the release of any money by the Council provided that for the avoidance of doubt that in such a case the indemnity will continue to apply in relation to any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.
- 3.4. Where an act or failure to act occurred not in relation to the discharge of any function or purported function of the Councillor or Officer as a Councillor or Officer of the Council but in their capacity or purported capacity as a councillor

or officer of another organisation then the indemnity shall only apply where the Councillor or Officer was, at the time of the act or failure to act, a councillor or officer of that organisation as a result of:

- 3.4.1. their appointment by the Council; or
- 3.4.2. their nomination to that organisation by the Council, or
- 3.4.3. the Council formally accepting an invitation for a Councillor and/or Officer to be appointed to that organisation,

and in all such cases that organisation has not itself secured adequate insurance for the benefit of the Councillor or Officer that is available to and would cover the Councillor or Officer for the act or failure to act.

## **4. Exclusions**

- 4.1. These indemnities will not include loss or damage directly or indirectly caused by or arising from:
  - 4.1.1. any criminal offence (to the extent as provided for in paragraph 3.3 above), fraud or other deliberate wrongdoing or recklessness by the Councillor or Officer; and/or
  - 4.1.2. any act or failure to act by the Councillor or Officer otherwise than in their capacity as a Councillor or Officer (save where the Councillor or Officer is acting for another organisation as provided for in paragraph 3.4 above); and/or
  - 4.1.3. any motor vehicle claim in which an Officer or Councillor has used their own private vehicle on the Council's business; and/or
  - 4.1.4. an Officer defending or resisting any potential or actual disciplinary action taken by the Council against that Officer; and/or
  - 4.1.5. failure by the Councillor to comply with the Council's Code of Conduct for Councillors.

## **5. Terms**

- 5.1. These indemnities will not apply if a Councillor or Officer, without the express permission of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim.
- 5.2. In the event that a Councillor or Officer is threatened with civil or criminal proceedings, the Councillor or Officer must as soon as reasonably practicable inform the Head of Paid Service and the Monitoring Officer and follow such reasonable instructions as may be given.
- 5.3. These indemnities shall not extend to any challenge or other claim against any decision of the Section 151 Officer and/or Monitoring Officer and/or the Council and/or the Council's insurers made pursuant to the provisions of these indemnities.
- 5.4. The indemnity will not automatically apply to any appeal or other challenge against the outcome of any claim or other proceedings unless in the opinion of

the Monitoring Officer any such appeal or other challenge has a reasonable chance of success.

- 5.5. Where the Council arranges insurance to cover its liability under these indemnities references to the Council in these indemnities shall where appropriate include references to its insurer.
- 5.6. The Council or its insurers will be entitled to take over and conduct in the name of the Officer or Councillor the defence of any claim or other proceedings brought against the Officer or Councillor.
- 5.7. The Council undertakes not to sue (or join in action as co-defendant) an Officer or Councillor in respect of any negligent act or failure to act by the Officer or Councillor in their capacity as an Officer or Councillor subject to the following exceptions:
  - 5.7.1. any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Officer or Councillor; or
  - 5.7.2. any act or failure by the Officer or Councillor otherwise than in their capacity as an Officer or Councillor of the Council (other than an act and/or failure to act where the Councillor or Officer was acting for another organisation as provided for in paragraph 3.4 above).
- 5.8. The above indemnities and undertaking shall be without prejudice to the right of the Council:
  - 5.8.1. to take action against the Councillor for a breach of the Code of Conduct for Councillors or the breach of any other locally adopted protocol or policy; or
  - 5.8.2. to take disciplinary action against an Officer in respect of any neglect, act, error or omission.

## **6. Co-opted Councillor**

- 6.1. The above indemnities and undertakings may be extended to apply to any co-opted Councillor on a case-by-case basis if the Council so determines.

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