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## **Part 3 – Section B**

### **SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS**

#### **General Principles**

#### **1. Powers**

- 1.1 This Scheme of Delegation is made pursuant to the Local Government Act 1972 Section 101 and by reference to Section 100G and the Local Government Act 2000 Section 15 and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 (as amended) and all other enabling powers.
- 1.2 The powers in this Scheme of Delegation are only exercisable within the limitations in the Scheme and are subject to the provisions of the Council's Constitution, including Financial Regulations, Contracts Procedural Rules and the Council's Procurement Strategy.
- 1.3 Where the Council, a Committee, Sub-Committee, the Leader, the Executive, Portfolio Holder or this Scheme of Delegation gives authority for any action, the officer designated shall be entitled to take all necessary steps for the doing of such thing.
- 1.4 In the event that an Executive Head of Service or a Head of Service's post ceases to exist or his or her responsibilities are transferred to another Executive Head of Service or Head of Service (as the case may be), temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.

#### **2. Exercise of Functions**

- 2.1 All decisions by officers made under this Scheme of Delegation, may only be exercised provided they are within budgetary provision and in accordance with proper authorities, in particular Financial Regulations.
- 2.2 The Chief Executive may appoint one or more deputies to exercise his or her functions owing to absence or illness and such deputies are authorised to exercise the functions of the Chief Executive pursuant to the Constitution, Financial Regulations and this Scheme of Delegation.
- 2.3 The Chief Executive may exercise the powers delegated to any Executive Head of Service or Head of Service except in relation to those functions

allocated to the chief finance officer (within the meaning of Section 151 of the Local Government Act 1972 and Section 112-114A of the Local Government Finance Act 1988) and to the Monitoring Officer (within the meaning of Sections 5, 5A of the Local Government and Housing Act 1989).

### **3. Sub-Delegation Scheme**

3.1 Where the Chief Executive, Executive Head of Service or Head of Service, are authorised to take decisions, action to implement such decisions will be taken

3.1.1 in the name of (but not necessarily personally by) the Chief Executive, Executive Head of Service or Head of Service; or

3.1.2 by any other officer authorised by Chief Executive, Executive Head of Service or Head of Service to take such action in their name or the sub delegates own name.

3.2 The Chief Executive, Executive Head of Service and each Head of Service must prepare and maintain a Sub-Delegation Scheme setting out which officers have been authorised to make decisions under their delegated powers and subject to which terms and conditions. Sub-delegation Schemes must be lodged with the Democratic Services Manager.

3.3 Where delegations are to be exercised after consultation with the Leader, Portfolio Holder, Group Leaders, ward members or nominated officers, the authorised officer will carry out the consultation and ensure that a record is made.

3.4 Where delegations are to be exercised after consultation with a Portfolio Holder and that Portfolio Holder is unavailable, consultation shall take place with the Leader.

3.5 Where delegations are to be exercised after consultation with other officers, if agreement between officers cannot be reached, the matter must be referred to the Chief Executive for consideration.

### **4. Urgent Action**

4.1 The Chief Executive, Executive Head of Service or Head of Service are authorised to determine matters of an urgent nature which cannot wait for the next meeting of the decision-making body which are not key decisions and which do not contravene established policies or budgets,

- 4.1.1 after consultation with the Leader and Mayor in relation to Council functions;
  - 4.1.2 after consultation with the Leader or relevant Portfolio holder and with the Chairman or Vice-Chairman of the relevant Scrutiny Committee in relation to Executive functions;
  - 4.1.3 after consultation with the Chairman or Vice Chairman of the relevant regulatory Committee.
- 4.2 All matters will be reported to the next meeting of the appropriate decision-making body.

## **5. Budgets**

- 5.1 The Chief Executive, Executive Heads of Service or Heads of Service are authorised to set annual discretionary fees and charges after consultation with the Leader or relevant Portfolio Holder and Executive Head of Finance, as set out in Financial Regulations.
- 5.2 The Chief Executive, Executive Heads of Service, Heads of Service, or Returning Officer are authorised to vire amounts specified in revenue budget headings in accordance with Financial Regulations, subject to the approval of Management Board.

## **6. Schedule of Authorisations**

- 6.1 A schedule of authorisations is attached at Appendix 1.

## **7. Amendments**

- 7.1 Amendments to this Scheme will be approved as follows:
  - 7.1.1 Non-executive functions – by the full Council
  - 7.1.2 Executive functions - by the Leader/Executive
  - 7.1.3 in respect of the officers designated to exercise delegated authorities where changes in the management structure and post titles have resulted from organisational restructures – by the Monitoring Officer.
  - 7.1.4 updates to reflect new legislation where there is no extension to the limit of the existing delegation – the Monitoring Officer.

## **8. Interpretation**

- 8.1 Any reference to a statute or statutory instrument should be taken to include any subsequent statute or statutory instrument that replaces, amends or extends it, or contains related provisions.
- 8.2 The terms “officer”, “staff” or “employee” include any person employed by the Council irrespective of the particular terms and conditions under which they are employed.
- 8.3 Where a delegation is shown as being both an Executive and Non-Executive Function, advice should be sought from the Monitoring Officer regarding the individual circumstances.

## **Schedule of Authorisations**

### **1. Legal Proceedings**

- 1.1 In accordance with Article 14 of the Constitution the Head of Legal Services is authorised to institute legal proceedings in respect of all functions of the Council.
- 1.2 The Executive Head of Finance and Head of Legal are authorised to investigate and prosecute using the powers contained within the Prevention of Social Housing Fraud Act 2013 and any current or amending legislation relating to fraudulent acts associated with the provision of social housing.
- 1.3 The Head of Legal Services is authorised to institute criminal or civil proceedings in respect of any corporate fraud offence on behalf of the Council or the DWP or any other relevant stakeholder and/or partner.

### **2. Representing the Council in Legal Proceedings**

- 2.1 The Head of Legal Services is authorised to appoint any appropriate officer to appear on behalf of the Council and to conduct legal proceedings or complete formal proof in court or tribunal. A record of those officers so appointed will be kept by the Head of Legal Services in accordance with the Sub Delegation Scheme.

### **3. Land, premises, samples, records, articles, equipment or information**

- 3.1 The Chief Executive, Executive Head of Service, Head of Service, and any other officer authorised by those officers, are authorised to
  - 3.1.1 enter, visit or inspect premises,
  - 3.1.2 procure samples,
  - 3.1.3 inspect, seize, detain or destroy any goods, articles or equipment;
  - 3.1.4 inspect, seize and detain any records, including records held in electronic form;
  - 3.1.5 demand or require information

in accordance with and as provided for by any legislation covering any Council function.
- 3.2 The Chief Executive, Executive Head of Service, Head of Service, and any other officer authorised by those officers, may apply to the Justices of the Peace to obtain warrants to enter premises as provided for by any legislation covering any Council function.

- 3.3 A record of any other officers authorised as set out above, will be kept by the Chief Executive, Executive Head of Service or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

#### **4. Instruments of Appointment**

- 4.1 The Chief Executive is authorised to issue Instruments of Appointment to the Executive Head of Community as an inspector under the Health & Safety at Work Act 1974 and associated Acts together with all related Regulations and Orders specifying the powers exercisable, having regard to that inspector's qualifications and duties.
- 4.2 The Executive Head of Community is authorised to issue Instruments of Appointment to an inspector under the Health & Safety at Work etc Act 1974 and associated Acts together with all related Regulations and Orders specifying the powers exercisable having regard to that inspector's qualifications and duties.

#### **5. Serving of Notices**

- 5.1 The Chief Executive, Executive Head of Service, Head of Service and any other authorised officer employed by the Council are authorised to serve any statutory notices as provided for by any legislation covering any Council function. A record of any other officers so authorised will be kept by the Chief Executive, Executive Head of Service or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

#### **6. Cautions**

- 6.1 The Chief Executive, Executive Head of Service, Head of Service and any other officer authorised by those officers, are authorised to act as Cautioning Officer in order to issue cautions to persons making a clear and reliable admission of an offence, where it is considered that the use of a formal caution is appropriate. A record of any other officers so authorised will be kept by the Chief Executive, Executive Head of Service or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

#### **7. Appeals**

- 7.1 Unless otherwise reserved to the Council, the Executive, a Committee or Sub Committee, as set out in their Terms of Reference, the Chief Executive, Executive Head of Service, Head of Service and any other officer authorised by those officers, are authorised to hear appeals as provided for by any legislation covering any Council function and in accordance with Council Policies. A record of any other officers so authorised will be kept by the Chief Executive, Executive Head of

Service or Head of Service as appropriate in accordance with the Sub Delegation Scheme referred to in the General Principles.

## **8. Regulation of Investigatory Powers Act 2000**

- 8.1 The Chief Executive is authorised to agree the use of a covert human intelligence source where that source is a vulnerable person or a juvenile or where knowledge of confidential information is likely to be acquired under the Regulation of Investigatory Powers Act 2000.
- 8.2 The Executive Head of Community, the Executive Head of Finance and the Executive Head of Regulatory are authorised
  - 8.2.1 to agree the use of directed surveillance under Section 28 of the Regulation of Investigatory Powers Act 2000; and the use of covert human intelligence sources under Section 29 of the Regulation of Investigatory Powers Act 2000;
  - 8.2.2 as a Designated Person, to issue a Notice/Authority under Chapter II Part 1 of the Regulation of Investigatory Powers Act 2000 requiring communications data to be obtained and disclosed; and
  - 8.2.3 to undertake directed surveillance pursuant to Section 28 of the Regulation of Investigatory Powers Act 2000.
- 8.3 The Head of Legal Services is authorised
  - 8.3.1 after consultation with the appropriate portfolio holder and the Leader of the Council, to amend the Regulation of Investigatory Powers Act 2000 Policy and Procedure, to reflect changes to the legislation or for better performance of the Policy.
  - 8.3.2 to add to, or delete from, the list of authorised officers in Annex 1 of the Policy and Procedure pursuant to the Regulation of Investigatory Powers Act 2000.
- 8.4 The Audit and Investigations Manager is authorised to act as the Council's Single Point of Contact for the purposes of accessing and disclosing communications data under Chapter II Part 1 of the Regulation of Investigatory Powers Act 2000.

## **9. Consultant in Communicable Diseases Control**

- 9.1 The Consultant in Communicable Diseases Control is authorised by the Council to carry out the following actions:
  - 9.1.1 To apply to Justices for orders and certificates with a view to preventing spread of disease.



- 9.1.2 To apply to Justices for orders and certificates for the removal of aged or infirm persons to hospital, after consultation with the patient's General Practitioner and the Executive Head of Community.
- 9.1.3 To serve notices relating to infected food and control of notifiable diseases.

## Statutory Officers

### Head of Paid Service

	Authority	Function
1.	<p>To make all decisions in relation to Human Resources functions in accordance with the Council's Policies and within budgetary provision, except (a), (b), (c), (d), and (e) below which are reserved to Full Council and (f) which is reserved to the Appointments Committee:</p> <p>(a) the appointment of the Chief Executive and the statutory posts;</p> <p>(b) amendments to Terms and Conditions of Employment for Staff and Human Resources Policies where there are additional budget implications or where there is no unanimous decision the Joint Staff Consultative Group;</p> <p>(c) the adoption of the annual Pay Policy Statement;</p> <p>(d) the approval of and amendments to the Pension Policy Statement;</p> <p>(e) the settlement of any staff pay award; and</p> <p>(f) the appointment of Executive Heads.</p>	Non-executive

### The Returning Officer and Electoral Registration Officer

	Authority	After Consultation with	Function
1.	Within the approved budget, to approve scales of remuneration of persons employed on Borough and Parish Council elections.	Other local authorities in Surrey.	Non-executive
2.	<p>To amend the designation of a Polling Place, where within six months of an election,</p> <p>(a) a designated polling place unexpectedly becomes unavailable; and</p> <p>(b) it is impractical to report to Council.</p>	Ward councillors, local party agents and, if applicable, official candidates.	Non-Executive

## Statutory Officers

### The Monitoring Officer

	Authority	Function
1.	The delegations and authorisations for the Monitoring Officer are as set out in the Constitution at Article 12, the Members' Code of Conduct Part 5 Section A, and the Monitoring Officer Protocol at Part 5, Section J.	Non Executive

## Chief Executive

### Meetings, Members and the Constitution

	Authority	After Consultation with	Function
1.	To appoint members to the Independent Remuneration Panel.	The party group leaders.  All decisions to be reported to all Members by email.	Non-Executive
2.	In respect of ad hoc appointments during the year, to appoint or nominate members and representatives on outside bodies; to appoint trustees; and to identify the meetings of outside bodies which are an approved duty for paying allowances.	The party group leaders.  All decisions to be reported to all Members by email.	Non-Executive
3.	To approve the annual timetable of meetings of the Council and Standing Committees.	The Leader	Non-Executive

	Authority	Function
4.	To make changes to the membership of any of the Council's Committees as necessary during the Council year in accordance with the wishes of the respective group leaders. Any changes made to be reported to the next meeting of the Council.	Non-Executive

## Executive Head - Community

### Licensing

	Authority	After Consultation with	Function
1.	<p>On behalf of the Council, to submit objections and pursue such objections at a public inquiry if needed to:</p> <p>(a) applications for operators licences (including variations) made under the Goods Vehicles (Licensing of Operators) Act 1995; and</p> <p>(b) reviews undertaken of existing licences.</p>	The appropriate ward councillors.	Non-executive
2.	<p>To approve</p> <p>(a) <del>increases in the hackney carriage fare scale, having regard to any objections received; and</del></p> <p>(b) <del>amendments to the scale of charges for hackney carriage and private hire licence fees, having regard to any objections received.</del></p>	<del>The Chairman and Vice-Chairman of the Licensing Committee.</del>	Non-executive
3.	The determination of applications for street collections to provide funding to meet a major local/national/international disaster.	The Chairman and Vice-Chairman of the Licensing Committee.	Non-executive

	Authority	Function
4.	<p>To make all decisions in accordance the Council's adopted policies under the following Acts</p> <p>(i) the Public Health Act 1936 and 1961</p> <p>(ii) The Pet Animals Act 1951</p> <p>(iii) Caravan Sites and Control of Development Act 1960</p> <p>(iv) Animal Boarding Establishments Act 1963</p> <p>(v) Riding Establishments Acts 1964 and 1970</p> <p>(vi) Dangerous Wild Animals Act 1976</p>	Non Executive

## Executive Head - Community

<p>(vii) the Local Government (Miscellaneous Provisions) Act 1982,</p> <p>(viii) Breeding and Sale of Dogs (Welfare) Act 1999, Breeding of Dogs Act 1991 and Breeding of Dogs Act 1973</p> <p>(ix) The Regulatory Reform Act 2001</p> <p>(x) Licensing Act 2003,</p> <p>(xi) the Gambling Act 2005</p> <p>(i) the Scrap Metal Dealers Act 2013</p> <p>and any subsequent legislation to take all actions relating to the Council's licensing functions, including but not limited to the following:</p> <p style="margin-left: 40px;">A. <i>Personal, premises, club premises licences and Temporary Event Notices</i></p> <p style="margin-left: 40px;">B. <i>Hackney carriage vehicles and private hire vehicles</i></p> <p style="margin-left: 40px;">C. <i>House to house and street collections</i></p> <p style="margin-left: 40px;">D. <i>Street trading</i></p> <p style="margin-left: 40px;">E. <i>Club gaming/club machine permits and small society lotteries</i></p> <p style="margin-left: 40px;">F. <i>Sexual Entertainment Venues</i></p> <p style="margin-left: 40px;">G. <i>Scrap metal dealers</i></p> <p style="margin-left: 40px;">H. <i>Animal boarding establishments, riding establishments, dog breeders, pet shops and dangerous wild animals</i></p> <p style="margin-left: 40px;">I. <i>Caravan, camping sites and gypsy sites</i></p> <p style="margin-left: 40px;">J. <i>Game dealers</i></p> <p style="margin-left: 40px;">K. <i>Tattooing, acupuncture, ear piercing, body piercing and electrolysis</i></p> <p>except for</p> <p style="margin-left: 40px;">(a) approval of and amendments to the Statement of Licensing Policy and the Gambling Policy which are reserved to Council;</p> <p style="margin-left: 40px;">(b) approval and amendments to policies relating to functions under the Acts set out above which is reserved to the Licensing Committee;</p> <p style="margin-left: 40px;"><b>(c) approval of increases in the hackney carriage fare scale and amendments to the scale of charges for hackney carriage and private hire licence fees, which is reserved to the Licensing Committee;</b></p> <p style="margin-left: 40px;">(d) the designation of and amendments to hackney carriage vehicle ranks which is reserved to the Licensing Committee;</p>	
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## Executive Head - Community

	<p>(e) the power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption which is reserved to the Licensing Committee;</p> <p>(f) all applications and appeals reserved to the Licensing Sub Committee as set out in its Terms of Reference at Part 3, Section E of the Constitution.</p>	
5.	<p>On behalf of the Council as the Responsible Authority for Environmental Health, the Responsible Authority for Health and Safety, or the Responsible Authority for Licensing, under the Licensing Act 2003, subsequent amendments and all relevant legislation and regulations:</p> <p>(a) to make a relevant representation</p> <p>(b) to apply for a review of a premises licence</p> <p>(c) to apply for a review of a club premises certificate</p>	Non Executive

## **Food and Safety**

	<b>Authority</b>	<b>Function</b>
1.	<p>To make all decisions in accordance the Council's adopted policies under the following Acts</p> <p>(i) the European Communities Act 1972</p> <p>(ii) the Food and Environmental Protection Act 1985</p> <p>(iii) the Food Safety Act 1990,</p> <p>(iv) the Health &amp; Safety at Work etc Act 1974</p> <p>and any associated regulations and any subsequent legislation, to take all actions relating to the Council's functions in respect of food and health &amp; safety and pesticides, except the following which are reserved to the Executive after consultation with the Licensing Committee</p> <p>(a) Food law enforcement Service Plan</p> <p>(b) Food Hygiene Rating Scheme</p>	Non Executive/ Executive

## Executive Head – Finance

### Financial Management

	Authority	Function
1.	To determine rates of interest payable under:  (a) Public Health Acts and Housing Acts (rechargeable works executed by the Council)  (b) Local Government (Miscellaneous Provisions) Act 1976 (dangerous trees and restoration of supplies).	Non-Executive



## Executive Head – Regulatory

### Development Management

	Authority	After Consultation with	Function
1.	<p>To determine major planning applications where these are re-submitted applications previously refused only for SPA reasons which are now resolved and where:</p> <p>(a) the application is not materially different from the original application;</p> <p>(b) the material considerations affecting the decision have not changed;</p> <p>(c) there is no request from a councillor to call in the application for determination by the Committee as set out in 3(b) below.</p>	The Chairman of the Planning Applications Committee and Ward Councillors	Non-executive
2.	To agree variations to Section 106 legal agreements under the Town and Country Planning Act 1990 which relate to planning applications determined by the Planning Applications Committee or Full Council.	The Chairman of the Planning Applications Committee and Ward Councillors	Non-Executive

	Authority	Function
3.	<p>(A) to determine planning applications, applications for advertisement consent, non-material and minor material amendments applications, details to comply with conditions, variation/removal of condition applications, prior notifications/prior approval notices and certificates of lawfulness;</p> <p>(B) to determine applications for listed building and conservation area consent and to take action in relation to listed buildings and Conservation Areas; and</p> <p>(C) to respond to consultations and notifications, including Habitat Regulation Assessments;</p> <p>(D) to determine the need for an environmental impact assessments;</p> <p>(E) to take direct action/seek injunctions in relation to</p>	Non-Executive

## Executive Head – Regulatory

	<p>breaches of planning control, remove unauthorised signage/advertisements and remedying the condition of land;</p> <p>(F) to serve notices (including enforcement notices, breaches of condition notices, temporary stop notices, stop notices planning contravention notices;</p> <p>under the Town and Country Planning Acts and any Regulations made in relation to this legislation or any amendments, <b>except</b> (a) (b) (c) (d) (e) and (f) set out below which are reserved for decision by the Planning Applications Committee or (g) set out below which is reserved for decision by the Full Council:</p> <p>(a) planning applications for</p> <ul style="list-style-type: none"> <li>(i) the erection of 10 or more dwelling houses;</li> <li>(ii) erection of flatted developments, or conversion of existing properties into 10 or more units;</li> <li>(iii) new developments, extensions or change of use for non-residential development of 1000 sq metres or more;</li> </ul> <p>(b) any planning application, where within 28 days of the publication of the weekly list of planning applications, a councillor requests the Executive Head of Regulatory to refer an application to the next appropriate meeting of the Planning Applications Committee for determination.</p> <p>Where the 28 day call-in period has expired, but the Executive Head of Regulatory is satisfied that the circumstances are exceptional and the application has not been determined, they may, after consultation with the Chairman, arrange for that application to be referred to the Committee;</p> <p>(c) any planning application submitted by a serving Councillor, senior officers or any officers considered to be connected with the planning process, who are currently employed by the Council, or the spouse or partner of any of the above persons;</p> <p>(d) any planning application where an objection from a statutory consultee remains unresolved and the officer's recommendation is to approve the application;</p>	
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## Executive Head – Regulatory

	<p>(e) any planning application where the Council is the applicant;</p> <p>(f) any planning application which is required to be referred to the Secretary of State;</p> <p>(g) large-scale planning applications relating to land owned by the Council, or elsewhere if the proposed development is likely to have a very significant impact on the community as set out in Article 4.2(n).</p>	
4.	To take action, make decisions, serve notices and carry out works relating to trees pursuant to the Town and Country Planning Act 1990, the Hedgerow Regulations 1997 and Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, and any Regulations made in relation to this legislation or any amendments, <b>except</b> the confirmation or revocation of a tree preservation order where objections have been received which is reserved for decision by the Planning Applications Committee.	Non-Executive
5.	To agree the terms of, and variations to, Section 106 legal agreements under the Town and Country Planning Act 1990, in connection with the grant of planning permission under delegated powers.	Non-Executive

### Licensing

	Authority	Function
1.	<p>Under the Licensing Act 2003</p> <p>(a) to respond to the licensing authority in connection with consultations on applications on behalf of the local planning authority;</p> <p>(b) to apply for a review of a premises licence or a club premises certificate.</p>	Non-executive

## Executive Head – Transformation

### Members Meetings and the Constitution

	Authority	After Consultation with	Function
1.	To review, update and amend the Documents Which Support the Constitution	Members of the Governance Working Group	Non-executive

	Authority	Function
1.	To amend the Constitution when the changes result from requirements of new legislation or to ensure compliance with the Local Government Act 2000 and associated regulations.	Non-executive
2.	To appoint the Licensing Committee Licensing Sub Committees.	Non-executive

## Head of Legal Services

### Estate Management

	Authority	After Consultation with	Function
1.	To approve expenditure from the Repairs and Maintenance Fund on individual or related items up to £20,000.	The Leader or the appropriate Portfolio Holder	Non-executive or Executive as appropriate to the function being exercised.