

## **ANNEX 3 - RESPONSIBILITY FOR FUNCTIONS**

### **1. Responsibility for Local Choice Functions**

	<b><i>Function</i></b>	<b><i>Allocation</i></b>
1.1	Determining appeals against any decision made by or on behalf of the Authority.	The Employment Committee.
1.2	Making arrangements for hearing appeals in relation to school admissions and exclusions.	The Executive (but normally dealt with by the Director of Resources under delegated powers).
1.3	Obtaining information as to interests in land under the Town & Country Planning Act 1990 and the Local Government (Miscellaneous Provisions) Act 1976.	The Executive (but normally dealt with by the Chief Legal Officer under delegated powers).
1.4	Making Agreements for the execution of highway works.	The Executive (but normally dealt with by the Chief Executive and Director of Environment under delegated powers).
1.5	Appointing to outside bodies.	The Council (but may be dealt with by the Chief Legal Officer under delegated powers)
1.6	Making agreements with other authorities for the placing of staff at the disposal of those authorities	The Employment Committee in respect of Chief Officers and, in respect of other staff, the Executive (but normally dealt with by the Chief Executive or Chief Officers under delegated powers).

### **2. Council Functions – Scheme of Delegation to Committees**

#### **2.1 Introduction**

This Scheme delegates to Committees those functions which by virtue of the Local Authorities (Functions & Responsibilities) (England) Regulations 2000 and any amendment thereof (“the Regulations”), are not to be the responsibility of the Council’s Executive.

2.2 The Development Control Committee shall comprise 10 members of the Council and has delegated to it all the functions of the Council relating to:

- (i) Town and Country Planning & Development as specified in Schedule 1 A to the Regulations.

- (ii) Registration of common land or town and village greens as specified in Schedule 1 B paras. 37, 38 and 72 of the Regulations.
- (iii) Powers in relation to common land and unclaimed registered common land and unclaimed town or village greens as specified in Schedule 1 I paras 51, 52 and 53 of the Regulations.
- (iv) Highways and rights of way matters as set out in Schedule 1 B paras. 41, 46A, 47, 47A, 48, 49, 50, 51, 52, 53, 54 and 55; and in Schedule 1 I paras. 1 to 34 of the Regulations.

Note The Development Control Committee shall advise the Executive and appropriate officers on the making of traffic regulation orders, on the County Council's response to consultation from other bodies on planning matters and on accident remedial schemes when requested to do so.

2.3.1 The Employment Committee shall comprise 5 members of the Council and shall include at least one member of the Executive.

2.3.2 The Committee has delegated to it all the functions of the Council which may lawfully be delegated relating to:

- (i) the appointment, dismissal and discipline of the Chief Executive and Director of Environment and Chief Officers (identified in paragraph 9.1 a) of Section 9 to the Constitution)
- (ii) the determination of pay awards for the Chief Executive and Director of Environment and Chief Officers (identified in paragraph 9.1 a) of Section 9 to the Constitution) and the recommendation to the Chief Executive and Director of Environment of the level of pay award for senior officers graded PMC, PMB and PMA
- (iii) the determination of changes to the general terms and conditions of employment for County Council employees
- (iv) the determination of appeals against dismissal by staff graded PMA and PMB.
- (v) those matters specified as Council functions in the Regulations which are not delegated to another Committee of the County Council and which are capable in law of delegation to a committee.

2.4 The Pensions Committee has a membership of 10 County Councillors and 3 district members (non-voting) appointed by the Hertfordshire Leaders' Group. The Committee has delegated to it the Council's functions as administering authority in relation to the Local Government Pension Scheme and the Firefighters' Pension Scheme.

- 2.5 The Audit Committee has a membership of 10 members of the Council, not to include any Executive Member.

The Committee has delegated to it the Council's functions to:

- (1) approve the Annual Statement of Accounts
- (2) conduct an annual review of the system of internal control
- (3) approve the Statement of Internal Control
- (4) conduct an annual review of the effectiveness of the Council's internal audit system
- (5) consider and respond to the External Auditor's Annual Letter
- (6) advise the Executive on relevant audit matters, including:-
  - (a) the risk management system and risk related issues;
  - (b) anti-fraud and anti-corruption arrangements;
  - (c) financial statements, external auditor's opinion and report to members, and management action in response to the issues raised by external audit;
  - (d) internal audit strategy, plan and performance, and the implementation of internal audit recommendations;
  - (e) the annual report and other summary reports of the Chief Internal Auditor;
  - (f) the annual external Audit Plan;
  - (g) responses to reports from the External Auditor and from other inspection agencies, where these are related to financial management and governance.

The Executive is required to have regard to any advice given by the Committee.

- 2.6.1 The Standards Committee has a membership of five members of the Council.

The Committee has delegated to it the following functions:-

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members (including church and parent governor representatives)
- (b) advising the Council on the adoption or revision of the Code of Conduct for Members ("the Code")
- (c) assisting Councillors and co-opted members (including church and parent governor representatives) to observe the Code
- (d) monitoring the operation of the Code
- (e) advising training or arranging to train Councillors co-opted members and church and parent governor representatives on matters relating to the Code
- (f) hearing and determining complaints about members and co-opted members referred to it by the Monitoring Officer or Chief Executive and Director of Environment
- (g) granting dispensations from requirements relating to interests set out in the Code.

2.6.2 The Committee has power to appoint Sub-Committees and may authorise the Chief Legal Officer to establish, when required, an ad hoc Sub-Committee of three members of the Committee to conduct a substantive hearing of a complaint.

Each Sub-Committee has delegated to it the powers of the Committee in relation to the function it is established to exercise.

2.6.3 If there is a finding by the Standards Committee or Sub-Committee that there has been a failure to comply with the Code of Conduct, the actions which the Committee or Sub-Committee could take are as follows:-

- (1) reporting its findings to Council for information
- (2) recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council
- (3) recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities
- (4) Instructing the Monitoring Officer to arrange training for the member
- (5) removing the member from all outside appointments to which he/she has been appointed or nominated by the Authority
- (6) withdrawing facilities provided to the member by the Council, such as a computer, website and/or email and internet access
- (7) excluding the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings, or
- (8) requesting that the member provides an apology.

2.7 The Health and Wellbeing Board is established under Section 194 of the Health and Social Care Act 2012 and is a Committee of the Council. The membership and responsibilities of the Health and Wellbeing Board are as set out in its Constitution (Annex 11A).

### **3. Executive Functions – Scheme of Delegation to Officers**

#### **3.1 INTRODUCTION**

##### **Overall Basis**

- 3.1.1 This scheme delegates the functions of the Executive to officers and should be interpreted widely rather than narrowly.
- 3.1.2 This scheme delegates power and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation, including appointment and dismissal of staff and authorising the affixing of the Common Seal.
- 3.1.3 This scheme operates under the Local Government Act 2000 (“the Act”) and all other powers enabling the Council.

##### **Overall Limitations**

- 3.1.4 This scheme does not delegate to officers
- (i) any matter which is not the responsibility of the Executive by virtue of the Act, any Regulations made thereunder or the Executive Arrangements adopted by the Council
  - (ii) the power to make new policy or amend any policy adopted by the Council or the Executive
  - (iii) the power to exceed the provision of capital and revenue budgets for their services except insofar as authorised by Financial Regulations or Contract Regulations.
- 3.1.5 Officers shall exercise delegated powers in accordance with:-
- (i) The provisions of legislation, in particular the requirements of the Act and Regulations made thereunder in respect of the taking and recording of Key Decisions
  - (ii) The provisions of the Constitution and Executive Arrangements adopted by the Council
  - (iii) The requirements of Sections 3.1.7-3.1.13 below in respect of consultation with members
  - (iv) Policies approved by or on behalf of the Council
  - (v) Instructions from the Chief Executive and Director of Environment as Head of Paid Service.

3.1.6 In exercising delegated powers, officers shall have regard to any report by the Head of the Paid Service under Section 4 of , by the Monitoring Officer under Section 5 or 5A of, the Local Government and Housing Act 1989, or by the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988.

### **Consultation with Members**

3.1.7 Before taking any decision on behalf of the Council, an officer must consider whether to involve members. If the matter is a purely technical or professional routine matter, which is not controversial in any way, then members will not need to be involved.

3.1.8 If the matter has local significance, but no general significance for the Council and no controversial aspects, the officer shall consult or inform the local member in writing (or by e mail) and proceed. **It is essential that all officers responsible for delivering services ensure that local members are kept well briefed on issues affecting their areas.**

3.1.9 If the matter has general significance for the Council and/or is, or is likely to be, controversial, then the officer shall consult the appropriate Executive Member before proceeding. In some cases it will be necessary to consult more than one Executive Member, and in some cases the Leader of the Council will need to be consulted.

3.1.10 Consultation may be in writing or by e mail, but must allow sufficient time for the consultee to respond before a decision is taken.

3.1.11 A consultee may ask that other members' views be sought, including those of the local member.

3.1.12 If the Executive Member concurs with the officer's proposal, the officer may proceed.

3.1.13 As soon as practicable after the decision is taken, the officer must

- document it
- notify all consultees
- notify the Opposition service spokesmen

### **Further Provisions**

3.1.14 This scheme includes the power for officers further to delegate in writing all or any of the delegated functions to other officers (described by name or post) either fully or under the general supervision and control of the delegating officer. Sub-delegations shall be recorded in a register kept by the Chief Legal Officer. Sub-delegations may be made across departmental boundaries and to other Councils in Hertfordshire and their officers.

- 3.1.15 Officers shall devolve responsibilities for service delivery and management (whether or not involving sub-delegation under this scheme) to the nearest practicable point to the service user and in a way which clearly identifies accountabilities.
- 3.1.16 It shall always be open to an officer not to exercise delegated powers but to refer the matter to the Executive for decision.
- 3.1.17 In exercising delegated powers, officers shall consult with such other officers as they determine appropriate and shall have regard to any advice given.
- 3.1.18 In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties.
- 3.1.19 The Scheme delegates to the holder of each post named in it the management of the resources made available for the duties of the post as specified in the terms of the post-holder’s appointment.
- 3.1.20 In each case, except where the Chief Executive and Director of Environment is exercising delegated authority under paragraph 3.2(a), none of the officers named are authorised to make a formal response on behalf of the County Council to any White Paper, Green Paper or Government Consultation Paper, without prior approval of the appropriate Executive Member or in the absence of the Executive Member the Leader of the Council.

## **3.2 To THE CHIEF EXECUTIVE AND DIRECTOR OF ENVIRONMENT**

### ***As Chief Executive***

- (a) In cases of urgency, after consultation with the Leader of the Council and the relevant Executive Member, to take any decision which could be taken by the Executive.
- (b) To manage the co-ordination of budget processes, including overall strategy, planning, and information
- (c) To incur expenditure in the event of a civil emergency.
- (d) To authorise, after consultation with the Leader of the Council, twinning arrangements.

### ***As Director of Environment***

- (e) The functions of the Executive in relation to planning, highways, traffic and vehicle regulation, public transport, car parking and road safety; and in relation to the physical and economic

environment of the County including, rights of way and open spaces, and economic well-being.

- (f) The functions of the Executive in respect of waste disposal matters.

Note 1: The following matters are excluded from this delegation:-

- (i) Local Development documents – approval of draft consultation.
- (ii) Major Trunk Road and major Motorway improvement schemes – County Council response to public draft line, side road and compulsory purchase orders.
- (iii) Major Capital County Transportation Proposals:-
  - Choosing a preferred route or option following public consultation
  - Authorising the promotion of Compulsory Purchase and Side Road Orders.

Note 2: The Chief Executive and Director of Environment is responsible for co-ordination of the Council's requirements for transport services.

### **3.3 To THE DIRECTOR OF CHILDREN'S SERVICES**

The functions of the Executive in relation to children under social services legislation; education; the Youth Service; and in relation to the Youth Justice Service,

EXCEPT FOR

- (i) Significant variations to the Scheme of Local Management of Schools
- (ii) Making or responding to objections to the Schools Adjudicator in respect of the admission arrangements for schools for which the Council is not the admissions authority.
- (iii) Decisions to publish statutory notices to open or close schools or make significant changes to them.
- (iv) Decisions to confirm proposals in statutory notices to open or close schools or make significant changes to them when objections



have been made to those proposals.

### **3.4 To THE DIRECTOR COMMUNITY PROTECTION**

- (a) The functions of the Executive in relation to fire brigade matters and for petroleum licensing.

EXCEPT FOR:

- (i) Changes to duty schemes, including day crewing at fire stations.
  - (ii) Closure of fire stations.
- (b) The functions of the Executive in relation to Trading Standards and consumer protection; weights and measures; Food Safety; performing animals and explosives licensing.
- (c) The functions of the Executive in relation to Civil Aid and Emergency Planning.

### **3.5 To THE DIRECTOR ADULT CARE SERVICES**

The functions of the Executive in relation to:

- (i) social services for adults
- (ii) gypsy site provision
- (iii) the Health Service, except for the statutory functions of or functions delegated to the Director of Public Health

Note: The following matters are excluded from this delegation

- (i) Decisions on the location of gypsy and travellers sites.
- (ii) Decisions on the closure, relocation or change of use of residential and day care establishments.

### **3.6 To THE DIRECTOR OF PUBLIC HEALTH**

The exercise of the functions specified as being the responsibility of the Council's Director of Public Health by and under Section 73A of the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012).

### **3.7 To THE DIRECTOR OF RESOURCES**

- (a) To manage the Council's banking arrangements.
- (b) To manage from day to day the:-

- (i) County Fund and all subsidiary and associated accounts.
- (ii) Borrowing and Lending Portfolio.
  
- (c) To implement national and local pay awards and increase payments under the Pension Increase Acts.
- (d) To make leasing arrangements.
- (e) To manage the Council's Insurance arrangements.
- (f) To manage all HR activities including job evaluation, judgement on market forces and employee benefits; and the provision of information technology.
- (g) To authorise acquisition, re-use, appropriation and disposal of land and buildings.

EXCEPT FOR any transaction the value of which is expected to exceed £1M.

- (h) To act as client for all land and buildings.
- (i) The functions of the Executive in relation to Health and Safety.
- (j) To manage the Council's procurement activities
- (k) To manage Hertfordshire Business Services
- (l) To consent to the establishment of local authority and schools companies;
- (m) To agree to the Council becoming a member of a company;
- (n) To appoint directors to companies of which the Council is a member;
- (o) To exercise the rights and responsibilities of the Council as 'supervising authority' for schools companies or appoint another officer of the council to do so; and
- (p) To exercise the rights of the Council as a member of a company or appoint another officer of the Council to do so.
- (q) The functions of the Executive in relation to public libraries, museums, archives and records; and culture (including sport and recreation)
- (r) To arrange the clerking of school admission appeals

- (s) The functions of the Executive relating to Communications
- (t) To manage support for members of the Council including locality budgets
- (u) The functions of the Executive in relation to strategic policy and partnerships

Note 1: Prior to exercising any of the delegations mentioned in paragraphs (l) to (p) above the Director of Resources must consult the Executive Member for Resources and Performance, and where the proposed company relates to a particular service or function, consultation must also take place with the relevant Chief Officer and Executive Member.

Note 2: There is excluded from the delegation mentioned at (q) above the decision on the withdrawal or modification of public facilities

### **3.8 To THE CHIEF LEGAL OFFICER**

- (a) To act as Solicitor to the Council and to authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal; and also to make payments to remedy maladministration.
- (b) To authorise officers of the Council to appear in the Magistrates' or County Courts .
- (c) To take decisions as Proper Officer of the Council except where legislation or this scheme names another officer and to authorise the making and issue of any formal documents and witness the affixing of the seal.
- (d) The functions of the Executive in relation to Registration of Births, Deaths, Marriages and Civil Partnerships, and the Coroners Service.
- (e) To make appointments to Cabinet Panels (including substitutions) in consultation with Group Leaders, to appoint Chairmen and Vice-Chairmen of Panels, in consultation with the Leader of the Council.
- (f) The functions of the Executive in relation to procedures prior to private meetings of the Executive.

## **4. Council Functions - Scheme of Delegation from the Council to Officers**

- 4.1 This Scheme delegates to officers those functions which are by virtue of the Local Authorities (Functions & Responsibilities (England))

Regulations 2000 or any amendment thereof (the Regulations) are not to be the responsibility of the Council's Executive.

4.2 Subject to 4.3 below, the exercise of delegated powers by officers under this Scheme is subject to the limitations set out in sections 3.1.4 to 3.1.6 of the Scheme of Delegation to Officers relating to Executive Functions set out earlier in this document, and the further provisions set out in sections 3.1.14 to 3.1.20 of that Scheme.

#### 4.3 Consultation with Members

The requirements for member consultation set out in sections 3.1.7 to 3.1.13 of the Scheme of Delegation to Officers relating to Executive Functions apply to this Scheme EXCEPT THAT where the decision to be made has general significance and/or is, or is likely to be, controversial the officer shall consult leaders of all political groups or their nominees before proceeding and shall notify those members of the decision as soon as practicable after it has been taken.

#### 4.4 Chief Executive and Director of Environment

4.4.1 To appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal) as specified in Schedule 1 I para. 37 of the Regulations.

4.4.2 The decision on salary on appointment of any officer if the proposed salary is £100,000 p.a. or greater, subject to consultation with Group Leaders. [If any Group Leader or Group Leaders who individually or collectively represent 5 or more members of the Council dissent from the proposed additional payment then the salary package for that employee shall be referred to full Council for decision].

4.4.3 The decision to apply an additional payment to attract or retain a senior manager where appropriate, based on the market, subject to consultation with Group Leaders where the proposed additional payment is to an employee whose salary is already £100,000 p.a. or more, or where the proposed additional payment would result in the employee's salary rising to £100,000 p.a. or more. [If any Group Leader or Group Leaders who individually or collectively represent 5 or more members of the Council dissent from the proposed additional payment then the salary package for that employee shall be referred to full Council for decision].

4.4.4 The power, in consultation with Group Leaders, to consider appeals from any decision of the Monitoring Officer that a complaint does not warrant investigation.

4.4.5 All functions of the Council relating to

- (i) Town & Country Planning and Development Control as specified in Schedule 1 A of the Regulations. EXCEPT FOR

- approval of major departures from Development Plans arising from planning applications requiring the submission of an Environmental Statement.
  - approval of county matters (minerals & waste) or County Council applications requiring the submission of an Environmental Statement.
  - approval of County Council applications (Regulation 3 of the Town and Country Planning General Regulations 1992) requiring the submission of an Environmental Statement.
- (ii) Registration of common land or town or village greens as specified in Schedule 1 B paras. 37, 38 and 72 of the Regulations.
- (iii) Powers in relation to common land and unclaimed registered common land and unclaimed town or village greens as specified in Schedule 1 I paras 51,52 and 53 of the Regulations.
- (iv) Highways and rights of way matters as set out in Schedule 1 B paras. 41, 46A, 47, 47A, 48, 49, 50, 51, 52, 53, 54, 55; and in Schedule 1 I paras. 1 to 34 of the Regulations.

#### 4.5 Director of Children's Services

To license the employment of children as specified in Schedule 1 B para. 35 of the Regulations.

#### 4.6 Director Community Protection

- (i) Functions in relation to the licensing of sports grounds.
- (ii) The licensing and registration functions of the Council specified in Schedule 1B paragraphs 31, 42, 43, 44, 45 and 46 of the Regulations.

#### 4.7 Director of Resources

To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.

Functions in relation to pensions as specified in Schedule 1 H of the Regulations.

#### 4.8 Chief Legal Officer

- (i) Functions in relation to approval of premises for marriages and civil partnerships as specified in Schedule 1 B para. 36 of the Regulations.

- (ii) Functions in relation to elections as specified in Schedule 1D of the Regulations.
- (iii) To make Standing Orders for Contracts as specified in Schedule 1 para.15 of the Regulations.
- (iv) To appoint, in consultation with the relevant Group Leader, a substitute member of Committees, Sub-Committees, Topic Groups and other member bodies for any ordinary member who, for whatever reason, will not be attending a meeting, or meetings, of any such body, provided that the substitute is of the same political group as the ordinary member.<sup>1</sup>
- (v) To make payments in cases of maladministration as specified in Schedule 1 para. 16 of the Regulations.
- (vi) To make appointments to Committees, Sub-Committees, Panels, Topic Groups, other member or council bodies and outside bodies, including the Hertfordshire Valuation Tribunal.
- (vii) To appoint Chairmen and Vice-Chairmen of Topic Groups, in consultation with the Chairman and Vice-Chairman of the Overview and Scrutiny Committee.
- (viii) To be the Returning Officer for County Council elections
- (ix) To take decisions as Proper Officer of the Council except where legislation or this Scheme names another officer
- (x) To authorise the making and issue of any formal documents and witness the affixing of the seal
- (xi) To authorise officers of the Council to appear in the Magistrates' and County Courts
- (xii) As Monitoring Officer, the power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation; with the ability to refer decisions on investigation to the Standards Committee wherever the Monitoring Officer considers that it is inappropriate for her to make that decision
- (xiii) Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer be authorised to seek a resolution in appropriate cases. Where such resolution is not appropriate or possible the Monitoring Officer is to report the investigation findings to a Sub-Committee of the Standards Committee for a hearing.

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<sup>1</sup> The Chief Legal Officer is able to use his/ her authority under this delegation to appoint substitutes to Development Control Committee if any of the substitutes appointed by Council are not available to attend the relevant meeting.