



BIRCHWOOD
TOWN COUNCIL

Scheme of Delegation

Incorporating Committee Terms of Reference

This Scheme of Delegation forms part of the Council's Standing Orders and Financial Regulations and must be read together with any other council approved policies

The Scheme of Delegation sets out how the Council delegates some of its powers and duties to the Proper Officer and other Officers within the Council. The Scheme of Delegation authorises the Standing Committees and Sub-committees of the Council to act within the delegated authority in the specific circumstances detailed.

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1. DISCHARGE OF THE SCHEME

1. This Scheme of Delegation forms part of the Council's Financial Regulations and Standing Orders and must be read together with any other council approved policies. This document shall be reviewed at least annually at the Annual Council meeting or earlier, for example when there are staffing changes or proposed changes to the document.
2. One of the purposes of the document is to clearly define the parameters within which Officers of the Council are able to act without reference to either their line managers or council members.
3. Where consultation with others is a requirement of the ability to act it is clearly set out with whom that consultation should take place.
4. Any deviation from this scheme should be reported to Council at the earliest opportunity with an explanation of the circumstances in which the breach occurred.
5. The other purpose of the document is to capture the various delegated powers throughout the Council, including those delegated by the Council to its Standing Committees. This element of the scheme incorporates the Terms of Reference of the Standing Committees.

2. THE POWER TO DELEGATE

1. The power to delegate functions by local councils is set out in the Local Government Act 1972 S.101 as follows:
 - **Local Government Act 1972 S. 101 Arrangements for discharge of function by local authorities**
2. Unless a Statutory prohibition applies, the performance of the statutory powers and functions and related work of the council can be delegated to a committee or a sub-committee or officer of the council. A sub-committee is appointed by a Committee. A council can but does not have to appoint committees.
3. Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee of the authority, then unless the local authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority.
4. Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority shall not prevent the authority or committee by whom the arrangements are made from exercising those functions.
5. Two or more local authorities may discharge any of their functions jointly (s.101(5) of the LGA

1972) and, where arrangements are in force for them to do so, they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of the authorities. If a joint committee is appointed, the appointing authorities decide its members and terms of reference, and which authority shall act as the lead accountability body for the purposes of proper practices as per guidance contained within the Governance & Accountability Practitioners Guide.

6. A local authority's functions with respect to issuing a precept for a rate or borrowing money shall be discharged only by the authority.

3. CONFLICTS OF INTERESTS [COUNCIL OFFICERS]

1. Under the Local Government Act 1972, section 117; Officers must make a formal declaration about council contracts where the employee has a financial interest in any existing or proposed contract and to notify the council in writing.
2. It is an offence under Section 117 of the Local Government Act 1972 for any employee to accept any fee or reward other than his or her proper remuneration in the course of his/her duties.
3. Employees are required to comply with the Code of Conduct for employees. Where the Town Clerk or Council Officer has a conflict of any interest in any matter, he/she shall not participate in that matter unless approved by the Council and this shall be formally recorded in the council minutes and updated in the declaration form.

4. COUNCIL RESERVED POWERS & SAFEGUARDS

1. Each Committee shall have the delegated authority to decide matters within their terms of reference as incorporated within this delegation scheme except for the following matters, which are to be resolved only by the Full Town Council:
 - a) Appointment of the Town Clerk and Responsible Financial Officer
 - b) Setting the final budget or the precept (council tax requirement)
 - c) The outcome of a review of the effectiveness of its internal controls
 - d) Approving accounting statements
 - e) Approving an annual governance statement
 - f) Borrowing
 - g) Writing off bad debts
 - h) Declaring eligibility for the General Power of Competence
 - i) Addressing recommendations from the internal or external auditors
 - j) Determining and regularly reviewing the bank mandate for all council bank accounts
 - k) Authorising any grant or single commitment in excess of the threshold set out in the Financial Regulations.
 - l) Appointment of the Chairman and Vice-Chairman of the Town Council
 - m) Appointment of the Chairman and Vice-Chairman of a Committee

- n) To amend and re-adopt the Standing Orders, Financial Regulations, Scheme of Delegation and other Council adopted Policies and Procedures.
 - o) Determining the Council's Corporate Priorities.
 - p) To agree and/or amend the Committee terms of reference, deciding on their composition and making appointments to them.
 - q) Filling of any vacancies occurring on any committee of the Council during the council year
 - r) Adopting and revising the Council's Code of conduct.
 - s) Agreement to take on new, including devolved services, subject in all cases to a fully costed business plan, to be recommended by the relevant committee.
 - t) To consider the recommendations of any Remuneration Panel (where one is in existence) and adopt the level of allowances that can be claimed by Members of the Council in respect of authorised or approved duties.
 - u) To determine matters involving expenditure for which budget provision is not made or where budgets may be moved to other budget headings or to an earmarked reserve as appropriate in accordance with any requirements of the Financial Regulations.
 - v) To determine matters affecting or likely to affect, another Committee or where consultation with or approval of that other Committee is required.
 - w) To determine any matters referred to it by a Committee
 - x) To determine matters which do not fall within the remit of any Committee
 - y) To receive statutory reports from the Proper Officer and Responsible Financial Officer
 - z) To consider all other matters which must, by law be considered by Full Council
2. The Council may, at any time without prejudice to executive action taken already, revoke any delegated power delegated to a Committee or an Officer.
 3. In accordance with the Standing Orders, the Council may, under specified conditions, reverse a Committee (or Council) decision.
 4. Members will be advised by the Town Clerk whether or not a particular item under discussion is within the Committee's (or Sub-Committee's) delegated powers. The minutes will then record the decision as "RESOLVED". If it is not, then the minutes will show the decision as "RECOMMENDATION". The Town Clerk will then add the recommendation to the next full council meeting agenda meeting where the item can be considered in full by the Town Council and voted and/or ratified by members.
 5. In any case where a Committee (or Sub-committee), Chairman and Vice Chairman are either unsure whether or not any matter falls within delegated powers, or whether or not any matter should be determined by them, they should refer that matter to the next highest level of decision. A power delegated does not always have to be exercised.

5. DELEGATION TO STANDING COMMITTEES & SUB-COMMITTEES

1. The following matters are delegated to the Council's Committees and Sub-Committees to make decisions on behalf of the Council. The delegated decision making by Committees and Sub-Committees must be exercised in accordance with the law, the Council's Standing Orders, Financial Regulations and any approved policies and budget. Where they are delegated to the Committee and/or Sub-committee, so far as is legally permissible, they are deemed to be the acts and proceedings of the Town Council.
2. The Council may at any time, following resolution, revoke any delegated authority, without prejudice to executive action already taken.
3. Committees may decide not to exercise delegated responsibilities and may instead make a recommendation to the Council. Similarly where a Committee has no delegated power to make a decision it makes a recommendation to Council.
4. The members of a committee may include non-councillors unless it is a committee which regulates and controls the finance of the Council. The appointment of non-councillors will be on a strictly non-voting basis unless determined otherwise by the council. Where authority has been delegated to a committee to appoint non-councillors this will be included within the Committees Terms of Reference.
5. Committees are authorised to establish Sub-Committees as and when necessary to assist in its work subject this authority being permitted and referenced within the Committees Terms of Reference:
 - a) A Committee can arrange for the discharge of any of their delegated powers to a sub-committee. The delegated powers shall be decided by the committee at the time it is formed detailing the delegated powers. The collective decision making responsibilities in the committee and sub-committee are limited by the terms of reference of the parent committee.
 - b) The appointment of members to a sub-committee shall comprise of members appointed to the parent committee. The Chairman of a sub-committee shall be elected by the Committee from amongst its members appointed to the sub-committee.
 - c) **The Standing Committee shall be:**
 - 1) Personnel Committee
6. Committees shall be appointed annually at the Annual Council meeting.
7. The Chair and Vice-Chair of the Council shall be a full member of each Standing Committee in their capacity as Ex-officio with full voting rights. The Ex-Officios are entitled to being summoned to attend committee meetings, receiving agendas and background papers and speaking at meetings.

8. **Definition of “Oversee”** in regards to the Scheme of Delegation for each Committee:
- ‘To monitor and supervise the responsibilities of officers for a given area and provide instruction or direction or recommendations to officers when appropriate. This will include committees receiving appropriate reports and information from officers in order to make informed decisions’.

6. ADVISORY COMMITTEES & SUB-COMMITTEES

1. Section 102 (4) of the Local Government Act 1972 sets out the following:

1) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities [\[F8\]](#), or, where the appointing authority or each of the authorities operate executive arrangements, any executive of that or those authorities, or a committee or member of that executive,] on any matter relating to the discharge of their functions, and any such committee—

- a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and*
- b) may appoint one or more sub-committees to advise the committee with respect to any such matter.*

2. Committees and sub-committees appointed in accordance with the above section 102(4) of the Local Government Act 1972 are ‘advisory’ committees, therefore the advice can relate to the council or it’s committees or sub-committees on any matter relating to the discharge of the councils functions. Advisory committees appointed under this section do not have any legal power to discharge the functions of the council, committees or sub-committees.
3. In the event that the council appoint working parties, panels or committees to advise the council, then they shall be appointed in accordance with section 102 (4) of the Local Government Act 1972 and shall be subject to the legal requirements contained within the Local Government Act 1972.

PERSONNEL COMMITTEE

Membership:	Four Councillors with voting rights
Quorum:	Three Councillors with voting rights
Ex-Officio:	Chair and Vice Chair of the Council with full voting rights
Substitute Members:	Permitted (as appointed at the Annual Council meeting)
Non-Councillors:	None permitted
Meetings:	As agreed at the annual meeting of the council or as and when required
Standing Orders:	These shall regulate the proceedings of the meetings
Sub-committees:	None permitted

Purpose of the Committee:

- The committee is appointed to make decisions about all staffing matters and expenditure limits within the approved .

Terms of Reference

- 1) At the first committee meeting following the Annual Council meeting; the meeting shall confirm the Chair and Vice-Chair of the committee appointed at the Annual Council meeting.
- 2) In the circumstances where the Chair and Vice Chair of the committee are not present at the meeting, then a temporary Chair shall be appointed for the one meeting and voted in by the committee members present to Chair the meeting.
- 3) To receive and approve the draft minutes of the committee in accordance with the Standing Orders.
- 4) To establish and keep under review the staffing structure of the council.
- 5) To monitor and keep under review the Employee Handbook incorporating policies for staff and the Health and Safety Handbook. Where appropriate to agree any revisions in consultation with the appointed external HR company.
- 6) To keep under review staff working conditions, and health and safety matters.
- 7) To oversee the management and maintenance of the Council premises, and where required to consider external contractors to facilitate the service.

- 8) To oversee the recruitment and appointment of Staff. Any appointments to the Town Clerk (Proper Officer) and RFO role must be recommended for formal approval by the Full Council.
- 9) To arrange execution of new employment contracts and changes to contracts following any HR advice as required.
- 10) To oversee any process leading to the dismissal of staff (including redundancy) in accordance with the Employee Handbook procedures.
- 11) To appoint a member of the committee or the Chair of the Council as the day to day contact support for the Town Clerk for reporting purposes and to approve leave requests.
- 12) To supervise and performance manage the Clerks work, to oversee leave requests, record and monitor their absences, and handle grievance and disciplinary and pay dispute matters in accordance with the Employee Handbook.

Financial Delegation and Responsibility

- 1) To authorise any expenditure associated with the responsibilities that fall within the committees terms of reference subject to budget parameters and in accordance with the requirements of the Financial Regulations.
- 2) To receive financial statements for monitoring purposes and to ensure that the Committee does not exceed its overall budget.
- 3) To assemble and submit annual budget proposals as part of the budgeting process in respect of responsibilities and services of this committee in accordance with any requirements of the Financial Regulations.

7. DELEGATIONS TO OFFICERS

1. The delegations to officers in this scheme should not be construed as a job description for individual members of staff. This is a Scheme that sets out specific delegations to officers to act within defined parameters on behalf of the council. Delegated actions for officers shall be in accordance with Standing Orders, Financial Regulations and this Scheme of Delegation, council approved policies and procedures and with directions given by the Council from time to time.
2. The section of the scheme sets out matters delegated to the Council's Officers to make decisions or act on behalf of the Council. These decisions must be exercised in accordance with the law, the Council's Standing Orders and Financial Regulations and any approved policy framework and budget.
3. The Council may at any time, following resolution, revoke any delegated authority.
4. Officers may decide not to exercise delegated responsibilities and may instead make a recommendation to a Committee or the Council. Similarly where Officers have no delegated power to make a decision they report the matter to Committee or the Council for a decision.

[A] Town Clerk [Proper Officer]

- 1) The Town Clerk shall be the Proper Officer of the Council and as such is specifically authorised to exercise the delegations of the Proper Officer contained within the councils Standing Orders.
- 2) In addition, the Clerk has the delegated authority to undertake the following matters on behalf of the Council:
 - a) The day to day administration of services, together with routine inspection and control in accordance with the councils policies and procedures
 - b) The day to day administration of council correspondence, including Freedom of Information requests and GDPR subject access requests.
 - c) Day to day supervision and management of all staff employed by the Council and in accordance with the Employee Handbook.
 - d) Authorisation of routine expenditure within the agreed budget in accordance with the requirements of the Financial Regulations.
 - e) Authority to approve overtime subject to the costs to fall within parameters of the approved budget.
 - f) Emergency expenditure in accordance with the Financial Regulations.
 - g) Authorisation of payments in accordance with the Financial Regulations.
 - h) Matters specifically delegated by Council or Committee.
 - i) Power to release press statements on any activities of the Council in consultation with the Chairman.
 - j) Power to take appropriate steps to ensure that the council does not exceed its powers.

- 3) To be responsible for editorial control and management of the Town Council website and social media accounts in accordance with any council approved policies.
- 4) The Clerk will have authority to act immediately on all Health and Safety or emergency issues without waiting for endorsement by the council or committee. Emergency expenditure may be incurred in accordance with the requirements of the councils Financial Regulations.
- 5) The Clerk may identify training needs and book training courses for council employees in accordance with any delegated expenditure as per Financial Regulations. Consultation should take place with the Chair of Personnel for any training courses for the Clerk that have a cost implication.
- 6) The Clerk is authorised to book training courses for Council Members as directed by the Council or requested by a Council Member, subject to the training being delivered by the councils local county association provider and the expenditure authorised in accordance with the requirements of the Financial Regulations.
- 7) The Deputy Town Clerk shall have the delegated authority to act as the Town Clerk in the absence of the Town Clerk. The powers exercised by the Deputy Town Clerk shall be recorded in a delegation register.
- 8) The Town Clerk shall have the power to delegate any delegated powers to any other council officer as deemed appropriate and necessary.

[B] Responsible Finance Officer

- 1) The Responsible Finance Officer to the Council holds a statutory office, appointed by the Council is specifically authorised to exercise the delegations of the Responsible Financial Officer contained within the councils Financial Regulations and shall:
 - act under the policy direction of the council;
 - administer the council's financial affairs in accordance with all Acts, Regulations and proper practices;
 - determine on behalf of the council its accounting records and control systems;
 - ensure that the accounting control systems are observed;
 - ensure that the accounting records are kept up to date;
 - seek economy, efficiency and effectiveness in the use of council resources; and
 - produce financial management information as required by the council
 - Power to release any financial related report or document to the council in discharge of the Responsible Financial Officer Responsibilities.
 - Ensure that the approved precept is issued to the billing authority.
- 2) The Deputy RFO shall undertake the work of the Responsible Financial Officer in their absence.

- 3) The council may appoint appropriate staff member(s) to undertake the work of the Responsible Financial Officer as required by the Council's Standing Orders.

[C] Other Employed Personnel

- 1) The Town Clerk/RFO and other council Employed Officers are authorised to incur expenditure in accordance with the requirements and limits set out in the councils Financial Regulations and subject to budget provision.

[D] Consultant / Self-Employed Contractors

- 1) Consultants or self-employed contractors engaged by the Council do not have any delegation to make decisions or financial commitments on behalf of the Council.

[E] Volunteers

- 1) Volunteers must undertake the roles and responsibilities set out in their job descriptions and must not make any decisions or financial commitments on behalf of the council.