

For publication

Delegation Scheme and Constitution

Meeting:	STANDARDS AND AUDIT COMMITTEE
Date:	12 TH JULY 2023
Cabinet portfolio:	GOVERNANCE
Directorate:	CORPORATE

1.0 Purpose of report

1.1 To seek approval of updates to the Constitution.

2.0 Recommendations

2.1 That members confirm the changes to Constitution, and agree the delegations, proposed at Appendix 1.

3.0 Reasons for Recommendation

3.1 To ensure effective and efficient operation of the Council.

4.0 Report Details

4.1 The Constitution is a key document, required by law, which sets out the principal powers, duties and procedures of the Council. It also sets out in Part 3 to whom decision making over the Council's various functions is delegated.

4.2 The current form of Constitution has been in place since the early 2000s, using a government model. Most council constitutions follow a similar format, though some are now moving away from it. The constitution is publicly available on the Council's website at

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

4.3 The Constitution needs to be changed and updated from time to time to ensure it reflects current legislation, practices, functions, structures and efficient working of the authority.

4.4 Full Council considers the main changes and other changes are delegated to Standards and Audit Committee. Any consequential amendments and general updates are the responsibility of the Monitoring Officer.

4.5 Council approved and confirmed the Constitution at its 15th May 2023 Annual Business Meeting¹.

4.6 At the same meeting Council approved² various changes to:

¹ <https://chesterfield.moderngov.co.uk/documents/s45983/Report%20to%20Council%20-%20Delegation%20Scheme%20and%20Constitution%20-%20May%202023.pdf>

- Cabinet portfolios and frequency
- Changes to the size of certain committees
- overview and scrutiny arrangements

These approved changes are being incorporated into the Constitution.

4.7 Additional proposed changes requiring approval by this Committee are set out in Appendix 1, with reasons.

Decision information

Key decision number	<i>All key decisions must be in the Forward Plan at least 28 days in advance. There are constitutional consequences if an item is not in the Forward Plan when it should have been. Contact Democratic Services if in doubt.</i>
Wards affected	All
Links to Council Plan priorities	to provide value for money services

Document information

Report author	Contact number/email
Gerard Rogers Monitoring Officer	01246 936471 gerard.rogers@chesterfield.gov.uk
Background documents	
The Council's Constitution – on Council website https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx	
<i>This must be made available to the public for up to 4 years.</i>	
Appendices to the report	
Appendix 1	Proposed changes to Constitution
Appendix 2	Proposed changes to HR related delegations

Appendix 1

Constitution changes requiring approval by Standards and Audit Committee

Council Constitution:

<https://www.chesterfield.gov.uk/your-council/the-council/the-constitution.aspx>

Where appropriate changes are shown in red below.

Electronic Execution of Documents

The Constitution at various points (e.g. Part 2 paragraph 14.6 and 14.7 and Part 4 - Contract Procedure Rules) sets out circumstances when documents should be signed on behalf of, or sealed as a deed with the Council's corporate seal.

Increasingly, other parties to such documents are using electronic signatures on documents and ask for the Council to do likewise. This trend mainly started during Covid, but is now gathering greater pace with increasing expectation of electronic execution. It is anticipated that soon documents will be digital by default. The Constitution is currently silent on whether or not documents are permitted to be executed (ie signed or sealed) electronically, and it is considered that this should be clarified, to keep apace with this digital development.

Currently the Council can only execute documents electronically when the other party subscribes to a service (such as Docusign, but there are other systems), or by pasting a scanned signature into the document. There is currently no way for the Council to apply its seal electronically.

The Council's Procurement service is investigating subscription to a service which would allow Council deeds and agreements to be executed electronically. Levels of security would ensure only authorised signatories for that type / value of document would be permitted to sign, and an audit trail would be retained electronically.

This would mean that documents could be completed and stored electronically, without the need to scan paper copies. This would also save on printing costs, and it is understood that executing documents electronically would make costs savings. Such a system would involve an annual subscription (less than £10,000 a year), and it is understood in the case of electronic sealing, and a cost (about £2) each time the electronic seal is applied. A review of value thresholds set out in the Constitution is anticipated, and this may reduce the number of documents requiring the corporate seal.

It is recommended that appropriate changes are made to the Constitution by the Head of Regulatory Law to make it clear that documents can be executed (either by signature or by applying the Council seal) by electronic means as well as customary wet signatures and corporate seal. This would help ensure the Constitution is kept up to date and adapts to current practices.

Part 3 – Delegation Scheme

Human Resources related functions – A review has been carried out of the human resources related functions in Part 3 of the Constitution, to ensure that the delegation scheme properly reflects current practices of officer delegations. While this review is still ongoing, it is proposed that the changes in Appendix 2 are incorporated into the Constitution.

It is therefore recommended that the Head of Regulatory Law be delegated to amend the human resources provisions of Part 3 of the Constitution as set out in Appendix 2 and to make any other appropriate / consequential changes.

Part 4 – Rules of Procedure: Contract Procedure Rules (CPRs)

A review has been commenced by the Head of Procurement and the Property, Procurement and Contracts Law (PPC) Team Manager over the number of contracts requiring a formal contract document.

The requirement for a formal contract, rather than an award letter based on terms and conditions is triggered by a financial threshold in the CPRs. The current default is a formal contract, unless the value is less than £25,000. The CPRs state:

14.6 Contract Formalities

CONTRACT VALUE	SIGNATORY/EXECUTION REQUIREMENTS
Over £100,000.00	<p>The contract must be executed as a deed or subject to paragraph 14.4 and 14.5, if not executed as a deed, signed by:</p> <ul style="list-style-type: none"> • the Chief Executive OR • The Head of Regulatory Law and Monitoring Officer OR • two officers of the Council who are Solicitors or Chartered Legal Executives of five or more years standing*
£50,000.00 to £100,000.00	<ul style="list-style-type: none"> • Signed by the Chief Executive OR • the Head of Regulatory Law and Monitoring Officer OR • an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing*
£25,000.00 to £50,000.00	<ul style="list-style-type: none"> • the Head of Regulatory Law and Monitoring Officer OR • an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing*
< £25,000.00	Formalised by the issue of an award letter and the subsequent issuing of a purchase order where the contract is for works or

	services
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* and authorised as signatories by the Head of Regulatory Law and
Monitoring Officer

In view of the increasing value of contracts (as the result of general increase in prices and contract values generally) more and more formal contracts are having to be prepared by the PPC Law team, where the subject and nature of the contract often does not require it. This places additional and sometimes unnecessary pressure on that team when a formal contract is inappropriate.

It is therefore proposed that contracts with a value of between £25,000 and £50,000 be formalised by the issue of an award letter, rather than a formal contract document, unless there are reasons for it to be dealt with otherwise. Accordingly it is proposed that the following changes be made to the table:

CONTRACT VALUE	SIGNATORY/EXECUTION REQUIREMENTS
Over £100,000.00	The contract must be executed as a deed or subject to paragraph 14.4 and 14.5, if not executed as a deed, signed by: <ul style="list-style-type: none"> • the Chief Executive OR • The Head of Regulatory Law and Monitoring Officer OR • two officers of the Council who are Solicitors or Chartered Legal Executives of five or more years standing*
£50,000.00 to £100,000.00	A contract signed by: <ul style="list-style-type: none"> • the Chief Executive OR • the Head of Regulatory Law and Monitoring Officer OR • an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing*
£25,000.00 to £50,000.00	<ul style="list-style-type: none"> • Formalised by the issue of an award letter and the subsequent issuing of a purchase order where the contract is for works or services <p>Or, where appropriate on the advice of the Head of Procurement and / or the Property, Procurement and Contracts</p>

	<p>Law Manager, a contract signed by:</p> <ul style="list-style-type: none"> • the Head of Regulatory Law and Monitoring Officer OR • an officer of the Council who is a Solicitor or Chartered Legal Executive of five or more years standing*
< £25,000.00	Formalised by the issue of an award letter and the subsequent issuing of a purchase order where the contract is for works or services

* and authorised as signatories by the Head of Regulatory Law and Monitoring Officer

It is therefore recommended that the Head of Regulatory Law be authorised to make the above changes to the CPRs and any consequential changes.

2.2 EMPLOYMENT AND GENERAL COMMITTEE

2.2.1 MEMBERSHIP OF THE EMPLOYMENT AND GENERAL COMMITTEE

The Employment and General Committee comprises 6 members of the authority. It shall include:

- the Cabinet Member for Governance

The Committee shall be politically balanced.

The Committee shall not include any member of the Appeals and Regulatory Committee.

The names of the members of this Committee are shown in Part 8 of this Constitution.

2.2.2 FUNCTIONS OF THE EMPLOYMENT AND GENERAL COMMITTEE

General

EC000 To exercise all the council's functions to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal) under Section 112 of the Local Government Act 1972, and all functions incidental to section 112, except those functions which are to be exercised by the full council or by officers and subject to the terms of reference of the Appeals and Regulatory Committee in relation to grievance and disciplinary appeals.

EC010 To exercise the council's functions in relation to Elections and Electoral Registration and any other non-executive functions which are not reserved to the full council or delegated to any other committee or officer.

EC020 To delegate to officers such of its functions as the Committee may from time to time decide, where this is permitted or required by law.

EC030 To co-opt Cabinet Member(s) of the Cabinet as appropriate for its functions relating to the appointment, discipline, conditions of service and dismissal of the Senior Officers, and in such cases to co-opt other members so as to retain political balance.

EC040 To establish at the appropriate time sub-committees of members to act as appointment panels for the appointment of the Head of Paid Service, Chief Executive, Executive Director(s) (non-statutory chief officers) and Service Directors (Deputy Chief Officers) and to co-opt appropriate Cabinet or non-Cabinet members to those panels.

EC050 To determine which posts within the authority are non-statutory chief officer and deputy chief officer (Service Director) posts within the statutory definitions set out in the Employment Procedure Rules.

Designation of and Resources for Statutory Officers

EC060 To designate an officer as the head of the authority's paid service (Section 4(1) of the Local Government and Housing Act 1989).

EC070 To designate an officer as the monitoring officer, (Section 5(1) of the Local Government and Housing Act 1989).

EC080 To secure that one of the council's officers (Chief Finance Officer) has responsibility for the administration of the Council's financial affairs (Section 151 of the 1972 Act)¹⁵.

EC090 To provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such staff as are in their opinion sufficient to allow their statutory duties to be performed.

Proper Officers

EC100 To appoint officers for particular purposes (appointment of "proper officers"). (Section 270(3) of the Local Government Act 1972).

OFFICER DELEGATIONS: to the Service Director - Leisure, Culture and Community Wellbeing:

EC110D To appoint the proper officer for the control of communicable disease and food poisoning, and for the purposes of the National Assistance Act 1948 (as amended) who shall have the functions referred to at reference HW710D (Part 3 of this Constitution)

*EC120D To appoint **Alternative** Proper Officers to carry out the same functions as in reference HW710D.*

Corporate Terms and Conditions and Organisational Reviews

EC130 To determine collective and corporate terms and conditions of employees, and the employment status and corporate terms and conditions of agency staff casual labour and other non-standard terms and conditions.

EC140 To consider Departmental Staffing and Organisational Reviews from the point of view of its general functions under EC000.

Conditions of Service including Flexible Retirement

EC150 The Council's functions relating to Conditions of Service of Employees including redundancy, retirement and superannuation, subject to those delegated to officers below, and those to be exercised by the full council

EC160 Without affecting the generality of EC150 to decide the following matters in relation to staff at Service Director level or above:

- Requests to reduce hours or grade
- Requests for release of pension benefits under the flexible retirement LGPS rules, within the council's policy, and
- Applications for the waiver of actuarial reductions under the flexible retirement LGPS rules, within the council's policy
- Early retirement applications under Regulation 31 of the LGPS, within the council's policy. ¹⁶

OFFICER DELEGATIONS: to the Chief Executive, to each Executive Director and to each Service Director for the staff for whom they are respectively directly responsible

EC170D Determination of requests for early retirement

Deleted: and requests to extend employees' periods of service beyond compulsory retirement age for periods of less than six months at a time...

Training and Equalities

Deleted: Equal Opportunities

EC180 To monitor, develop and update human resources, equalities and training policies and practices in relation to the Committee's general functions at EC000.

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OFFICER DELEGATIONS: to the Chief Executive, to each Executive Director:

EC190D To approve the attendance of Officers on full-time courses of study for appropriate qualifications and the payment of course fees and other expenses under arrangements approved by the Council (including authorisation of employees attending courses or meetings which do not meet any one or more of the conditions under EC210D).

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OFFICER DELEGATIONS: to the Chief Executive, to each Executive Director and to each Service Director for the staff for whom they are respectively directly responsible

EC200D *To authorise **qualification** training and associated financial assistance in accordance with the principles laid down by the Council.*

EC210D *To authorise the attendance of any employee at any course or meeting which:*

- *is concerned with matters within the scope of the employee's responsibilities; and*
- *is of a professional, technical or administrative nature; and*

- *is **not** primarily concerned with matters of policy and which is open to members of local authorities; and*
- *does **not** involve the employee's absence for more than two weeks; and*
- *does not cost more than **£5,000** (including fees and all expenses).*

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Outcome of Consultation and Negotiation

EC220 To receive reports on, and make decisions on the outcome of, consultation and negotiation with employees and their representatives on **general** human resources and **general** health and safety matters affecting conditions of service and to receive the minutes of Health and Safety Committee.

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EC230 To receive any reports on Single Status.

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EC240 To receive and report on the minutes of the Employer / Trade Union Committee.

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Political Restriction

EC250 The Council's functions as to politically restricted posts and the determination of any issue as to politically restricted posts under the 1989 Act.

OFFICER DELEGATIONS: to the Head of HR

Deleted: Regulatory Law and Monitoring Officer

EC260D To maintain the list of politically restricted posts required by Section 2(2) of the 1989 Act.

Job Evaluation

EC270 To matters of policy in relation to the Job Evaluation Scheme.

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HEAD OF PAID SERVICE, EXECUTIVE DIRECTORS (CHIEF OFFICERS) AND SERVICE DIRECTORS (DEPUTY CHIEF OFFICERS) (PERMANENT OR FIXED-TERM CONTRACT POSTS)

Appointments

To carry out the following functions under the Employment Procedure Rules in Part Four of this Constitution:

EC280 To approve the Job Description and Person Specification

EC290 To shortlist and interview candidates

EC300 To notify the proper officer of the name and any other relevant particulars of the person to whom the committee wishes to offer the post

EC310 To decide whether any objection received by the proper officer from the Leader is material or well-founded. In making such a decision, the Committee or Panel shall comply with the Council's employment and equal opportunities policies, and with employment law.

EC320 In the absence of any objection being notified to the Committee by the Head of Regulatory Law and Monitoring Officer (or an Executive Director in the case of a proposed appointment of Head of Regulatory Law and Monitoring Officer), or if the Committee decides that any such objection is not material or well-founded, to appoint any Executive Director or Service Director or to recommend to the full council the appointment of a Head of Paid Service.

EC330 To authorise the re-advertisement of the post where no suitable candidate is found and to authorise the re-advertisement of the post or selection of an alternative candidate where the committee decides that any such objection is material or well-founded.

OFFICER DELEGATIONS: to the Chief Executive or an Executive Director (as appropriate):

EC340D To advertise the post in appropriate ways, send out information packs and receive completed application forms in accordance with the Employment Procedure Rules.

OFFICER DELEGATIONS: to the Head of Regulatory Law and Monitoring Officer

EC350D As proper officer, to notify every member of the Cabinet of the name and any other relevant particulars of the person to whom the committee wishes to offer the post, and the period within which any objection is to be made to the Head of Regulatory Law and Monitoring Officer by the Leader on behalf of the Cabinet.

EC360D To notify the Employment and General Committee of any such objection, or that no such objection has been received within the period specified.

Temporary (Acting) Appointments

EC370 To approve the temporary appointment of an acting Chief Executive Head of Paid Service, Executive Director or Service Director.

OFFICER DELEGATIONS: to the Head of Paid Service (Chief Executive)

EC375D To approve the temporary appointment of an Executive Director or Service Director for a period of up to 12 months.

DISCIPLINARY ACTION: EXECUTIVE DIRECTORS AND MEMBERS OF THE CORPORATE LEADERSHIP TEAM (other than the Head of Paid Service, Chief Financial Officer and Monitoring Officer)

Deleted: MANAGEMENT

OFFICER DELEGATIONS: to the Head of Paid Service (Chief Executive)

EC380D To investigate any allegation of misconduct made against an Executive Director, suspend on such terms as they think fit and take any action of a disciplinary nature under the Council's disciplinary procedures, other than dismissal.

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OFFICER DELEGATIONS: to the Chief Executive or an Executive Director (as the case may be) in respect of any Service Director for whom the Chief Executive or Executive Director is responsible

EC390D To investigate any allegation of misconduct made against any Corporate Management Team member, suspend on such terms as they think fit and take any action of a disciplinary nature under the Council's disciplinary procedures, other than dismissal.

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DISCIPLINARY ACTION: HEAD OF PAID SERVICE, CHIEF FINANCIAL OFFICER AND MONITORING OFFICER

EC400 To decide whether an allegation of misconduct by the head of the authority's paid service, its monitoring officer, or its chief finance officer, as the case may be, ("the relevant officer"), requires to be investigated.

EC410 To suspend on full pay any relevant officer for any period up to two months, and to review and extend such suspension for further period(s) of two months, for the purpose of investigating such alleged misconduct, under Employment Procedure Rule 5 (Part 4 of this Constitution).

EC420 To take any disciplinary action in respect of a relevant officer which would not be recorded on the relevant officer's personal file according to the usual practice of the authority.

EC430 To appoint a panel ("the Statutory Officers Disciplinary Panel") in accordance with Employment Procedure Rule 5 (Part 4 of this Constitution).

EC440 To consider the report of the Statutory Officers Disciplinary Panel, under Procedure Rule 5.

EC450 To take any disciplinary action in accordance with such report.

DISMISSAL OF HEAD OF PAID SERVICE, EXECUTIVE DIRECTORS AND SERVICE DIRECTORS

EC470 To notify the proper officer of the name and any other relevant particulars of the person to whom the committee wishes to dismiss.

EC480 To decide whether any objection received by the proper officer from the Leader is material or well-founded. In making such a decision, the Committee or Panel shall comply with the Council's employment and equal opportunities policies, and with employment law.

EC490 In the absence of any objection being notified to the Committee by the Head of Regulatory Law and Monitoring Officer or Executive Director (as appropriate), or if the Committee decides that any such objection is not material or well-founded, to dismiss any Executive Director or Service Director or to recommend to the full council the dismissal of a Head of Paid Service.

OFFICER DELEGATIONS: *to the Head of Regulatory Law and Monitoring Officer:*

EC470D As proper officer, to notify every member of the Cabinet of the name of the person whom the committee wishes to dismiss, any other relevant particulars relevant to the dismissal and the period within which any objection is to be made to the Head of Regulatory Law and Monitoring Officer by the Leader on behalf of the Cabinet.

EC480D To notify the Employment and General Committee of any such objection, or that no such objection has been received within the period specified.

OFFICER DELEGATIONS: *to the Executive Directors*

EC490D As proper officer, to notify every member of the Cabinet of the name of the person whom the committee wishes to dismiss (where that person is the Head of Regulatory Law and Monitoring Officer), any other relevant particulars relevant to the dismissal and the period within which any objection is to be made to the relevant Executive Director by the Leader on behalf of the Cabinet.

EC500D To notify the Employment and General Committee of any such objection, or that no such objection has been received within the period specified.

ALL OTHER EMPLOYEES

OFFICER DELEGATIONS: *to The Head of Paid Service (Chief Executive), each Executive Director or each Service Director:*

EC510D Within Council approved policy and budgets, and on behalf of the Council to appoint dismiss take disciplinary action against and deal with the terms and conditions of any employee of the Council subject to:

- the rules about specified officers in the Employment Procedure Rules and in this Part, and
- the terms of reference of the Appeals and Regulatory Committee in relation to grievance and disciplinary appeals, and
- the nomination of other officers to carry out such of those functions as are set out below

EC520D To nominate other officers to carry out such of their functions as **they** may from time to time decide.

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RECRUITMENT:

OFFICER DELEGATIONS: to THE EXECUTIVE DIRECTORS OR SERVICE DIRECTOR **OR TIER FOUR / TIER FIVE MANAGERS** OF THE STAFF FOR WHOM THEY ARE RESPECTIVELY DIRECTLY RESPONSIBLE:

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Deleted: Medical Checks¶

¶ EC530D to authorise the medical examination of candidates to determine capability for the performance of duties for which an offer of appointment is to be made....

Deleted: Relocation Allowances and Interview Expenses¶

¶ EC540D To authorise the payment of relocation allowances and interview expenses in accordance with the scheme....

Appointments and Regradings

Deleted: Convictions¶

¶ EC550D To seek disclosure of criminal convictions of applicants for employment through the Criminal Records Bureau in accordance with the policy approved by the Council....

SUBJECT TO consultation with the Head of HR):

EC530D Within authorised establishment and gradings, to appoint people to posts.

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EC540D To appoint and decide terms and conditions of the following types of temporary employee:

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- students on work experience;
- Government Training Scheme Trainees;
- temporary replacements for permanent employees who are absent for at least four weeks; and
- employees for up to one year for peak workloads and specific projects.

CONDITIONS OF SERVICE

Deleted: EC580D To determine applications for re-grading of posts below the job evaluation band.¶

OFFICER DELEGATIONS: to **THE HEAD OF PAID SERVICE**, THE EXECUTIVE DIRECTORS OR SERVICE DIRECTOR FOR THE STAFF FOR WHOM THEY ARE RESPECTIVELY DIRECTLY RESPONSIBLE:

National Awards

Deleted: EC590D WITH an Executive Director's APPROVAL, to apply to the employees concerned any national award or agreement on pay and conditions of service.¶

Starting Salary

EC550D To determine starting salaries at any point within the grade of the post having regard to qualifications and experience and any approved career grading scheme.

for Additional Duties

EC560D with an Executive Director's approval, and under the appropriate Scheme of Conditions of Service, to authorise payment to officers temporarily undertaking additional duties.

for Overtime

OFFICER DELEGATIONS: to THE HEAD OF PAID SERVICE, THE EXECUTIVE DIRECTORS OR SERVICE DIRECTOR, TIER FOUR / TIER FIVE MANAGERS FOR THE STAFF FOR WHOM THEY ARE RESPECTIVELY DIRECTLY RESPONSIBLE:

EC570D To authorise payments for overtime, including planned overtime, in accordance with the Scheme.

OTHER CONDITIONS OF SERVICE

OFFICER DELEGATIONS: to ANY MANAGER WHO IS A BUDGET HOLDER FOR THE STAFF FOR WHOM THEY ARE DIRECTLY RESPONSIBLE:

Membership of Professional Bodies

EC580D To authorise payments for employee membership of professional bodies.

Service Tenancies

EC590D To authorise service tenancies.

Leave

Special Leave - Career Break

EC600D To grant unpaid leave of absence for up to three months or up to twelve months under the Career Break Scheme.

OFFICER DELEGATIONS: to ANY TIER FOUR / FIVE MANAGER WHO IS A BUDGET HOLDER FOR THE STAFF FOR WHOM THEY ARE DIRECTLY RESPONSIBLE:

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¶ EC630D with an Executive Director's approval, to grant additional increments within the range of an employee's grade.¶

¶ Gratuities¶

¶ Death in Service¶

¶ EC640D To authorise the payment of grants and pensions to dependants of employees who have died in service and who are entitled to the benefits prescribed by the Local Government Pension Scheme Regulations. ...¶

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¶ Ex Gratia Payments¶

¶ EC650D To authorise payments to employees for loss or damage arising from the performance of their duties (replacement of damaged clothing, spectacles, etc.) in accordance with the approved guidelines.¶

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¶ Ex Gratia Payments¶

¶ EC650D To authorise payments to employees for loss or damage arising from the performance of their duties (replacement of damaged clothing, spectacles, etc.) in accordance with the approved guidelines.¶

Deleted: Allowances and Benefits¶

¶ OFFICER DELEGATIONS: to the Service Director - Digital, HR and Customer Services.¶

¶ Child Care Vouchers¶

¶ EC660D To issue vouchers in accordance with the criteria of the approved scheme.¶

¶ OFFICER DELEGATIONS: to EACH OF THE EXECUTIVE DIRECTORS OR SERVICE DIRECTOR FOR THE STAFF FOR WHOM THEY ARE RESPECTIVELY DIRECTLY RESPONSIBLE.¶

¶ First Aid Allowances¶

¶ EC670D To approve the payment of first aid allowances¶

¶ Telephone Service¶

¶ EC680D In accordance with approved guidelines, to arrange for the provision of telephone service at the homes of staff required to be on call.¶

¶ Essential Car User Status¶

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Special Leave - Compassionate and Paternity/Adoption

EC610D To grant paid leave of absence for compassionate leave, or parental leave, in accordance with council policy or guidelines and subject to current employment rights legislation.

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Deleted: paternity

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Carry Over of Annual Leave

EC620D..To authorise employees to carry over up to and including five days annual leave from one leave year to the first three months of the next, there being exceptional circumstances, in accordance with the National Conditions of Service.

Occupational Health Assessment of Employees

Deleted: Medical Examination

EC630D To authorise occupational health assessment of employees for the purposes of:

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- determining capability for the performance of duties for which such an employee was appointed; or
- re-entry into the Pension Scheme; or
- ill-health retirement in accordance with council policy and the Pension Scheme Regulations.

Discipline and Grievance

EC640D Subject to the functions of the Appeals and Regulatory Committee, to exercise the powers given to "Chief Officers" (Executive Directors and Service Directors) under Conditions of Service in accordance with the Council's disciplinary and grievance procedures.

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Flexible and Early Retirement

E650D Where appropriate and with the Service Director's approval (and after consultation with the Head of HR) to determine, for all staff below Service Director level:

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- Requests for release of pension benefits under the flexible retirement LGPS rules, within the council's policy, and
- Applications for the waiver of actuarial reductions under the flexible retirement LGPS rules, within the council's policy
- Early retirement applications under Regulation 31 of the LGPS, within the council's policy. ¹⁷

OFFICER DELEGATIONS: to THE STRATEGIC HEALTH, SAFETY AND RISK MANAGER:

First Aid Allowances

EC660D To approve the payment of first aid allowances

TERMINATION OF EMPLOYMENT:

OFFICER DELEGATIONS: to THE EXECUTIVE DIRECTORS, SERVICE HEAD TIER FOUR / FIVE MANAGERS FOR THE STAFF FOR WHOM THEY ARE RESPECTIVELY DIRECTLY RESPONSIBLE:

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Waiver of Notice

EC670D To waive any part of the notice required to be given by an employee to terminate their employment.

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Dismissal

OFFICER DELEGATIONS: to EACH SERVICE DIRECTOR:

Deleted: FOR THE STAFF FOR WHOM THEY ARE DIRECTLY RESPONSIBLE...

EC680D After consultation with the Head of HR, to dismiss employees on the grounds of misconduct, incapability, ill health or redundancy, with any associated payments and benefits.

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Special Severance Payments

OFFICER DELEGATIONS: TO THE HEAD OF PAID SERVICE IN PERSON:

EC690D Where it is proposed that any special severance payment (as defined in statutory guidance for the time being¹⁸) is to be made to a member of staff of a value of £20,000 and above, and subject to the requirement for any payment of £100,000 and above to be approved by Full Council¹⁹, to approve such payment after consultation with, and agreement of, the Leader.

Special Severance Payments to Head of Paid Service

EC700 When sitting with at least two Independent Persons²⁰, to consider any special severance payment (as defined in statutory guidance for the time being²¹) proposed to be made to the Head of Paid Service.

³ Local Authorities (Standing Orders) (England) Regulations 2001: *Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him.*

⁴ Approved by Council 12th October 2016

⁵ Statutory Guidance contained in Chapter 5 of the Local Government Act 2000: Guidance to English Local Authorities states: *"5.18 The Secretary of State considers that full exchange of information between the executive and any committee which takes development control decisions is essential. The executive will need to ensure that there is effective two-way communication between them and any such committee and should consult any such committee on successive drafts of the Development Plan while policy is being formulated. In addition, local authorities should consider including a member of the executive, if possible with responsibility for the Development Plan, on one or more committees which take development control decisions although she or he should not normally be the chair."*

⁶ Except for the Development Plan [and Conservation Area] functions which are executive functions.

⁷ for avoidance of doubt this includes determination of details and reserved matters

⁸ R. V Harrow LBC ex p Carlton-Conway 2001 46 E.G. 179 - a decision of the Chief Planning Officer of the Defendant Council to grant planning permission where he approved development. a written objection had been received, but he reasonably concluded that the proposals did not conflict with "agreed policies, standards and guidelines" of the Council as reasonably interpreted by him, was within his delegated authority.

⁹ Delegation approved by Planning Committee 4th December 2006

¹⁰ except for the designation or extension of Conservation Areas under Part Two of the LBA, which are within the responsibilities of the Cabinet Member for Economic Growth

¹¹ For enforcement in relation to listed buildings see section on Listed Buildings and Conservation Areas

¹² Former planning committee delegation *P540 Power to require the discontinuance of deemed consent for an advertisement or advertisement site* - deleted - Planning Committee 4/12/06 (Regulation 8 of the COAR 1992)

¹³ Approved by Planning Committee 29/11/04

¹⁴ These are non-executive highways functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 and in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England)(Amendment) Regulations 2001.

¹⁵ Section 113 of the Local Government Finance Act 1988 provides that the holder of such posts must be members of specified accountancy bodies. Section 114 of the 1988 Act places a specific duty on the responsible officers under this section to make a public report in specified cases of actual or anticipated financial misconduct.

¹⁶ Approved by Joint Cabinet and Employment and General Committee 7th November 2006. For flexible retirement of staff BELOW Service Head level, see separate officer delegation below

¹⁷ Approved by Joint Cabinet and Employment and General Committee 7th November 2006

¹⁸ https://www.gov.uk/government/publications/special-severance-payments/statutory-guidance-on-the-making-and-disclosure-of-special-severance-payments-by-local-authorities-in-england#introduction_May_2022

¹⁹ [Localism Act 2011](#)

²⁰ [Appointed by the Council under Section 28 of the Localism Act 2011](#)

²¹ <https://www.gov.uk/government/publications/special-severance-payments/statutory-guidance-on-the-making-and-disclosure-of-special-severance-payments-by-local-authorities-in-england#introduction> May 2022

²² The power to approve absences in section 85 of the 1972 act is an executive function, formerly within the terms of reference of Standards Committee and now in the Cabinet Member for *Customers and Communities*'.

²³ Approved by full council on 17th December 2003.

²⁴ Reduced from 15 to 14 – full council 13/05/19

²⁵ This is not a statutory rule but it is included in our constitution here because of the likelihood of applications for planning consent and for an alcohol licence for the same premises. A member dealing with the licensing application would be likely not to have an "open mind" when dealing with a planning application for the same premises.

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²⁶ The procedures for hearings will be in accordance with the provisions contained in the 2003 Act and Regulations made thereunder. The procedures will be approved by the Committee and apply to hearings before the Committee or any Sub-Committee.

²⁷ Licensing Act 2003 section 7(9)

²⁸ This includes, where applicable, the grant, refusal, variation, transfer, cancellation and revocation of licences, certificates etc and the imposition of conditions.

²⁹ As defined in the 2003 Act.

³⁰ As defined in the 2003 Act.

³¹ Where no relevant representations or objections have been made, the application must be granted.

³² See Footnote 7.

³³ Where the police have not objected, the application must be granted.

³⁴ There are certain functions which cannot be delegated to officers. Generally, these are licensing matters where relevant representations or objections have been made.

³⁵ This is subject to any resolution made by the full Council under section 166 of the 2005 Act not to grant casino premises licences.

³⁶ This includes, where applicable, the grant, refusal, variation, transfer, cancellation and revocation of licences, certificates etc and the imposition of conditions.

³⁷ "Premises Licence" means any of the following: casino premises licence, regional casino premises licence, large casino premises licence, small casino premises licence, bingo premises licence, adult gaming centre premises licence, family entertainment centre premises licence and betting premises licence.

³⁸ Representations can be made by Responsible Authorities and/or Interested Parties as defined by sections 157 and 158 of the 2005 Act unless otherwise stated.

³⁹ "Responsible Authorities" as defined by section 157 of the 2005 Act.

⁴⁰ "Responsible Authorities" as defined by section 157 of the 2005 Act.

⁴¹ Reduced from 15 to 14 – full council 13/05/19

⁴² A160D is the reference to reviews of decisions where the applicant is a sex offender or a serious offender - in such cases the reviews are by Service Director - Housings in consultation with the Cabinet Member for Customers and Communities.

⁴³ A090 is the reference to carrying out reviews of decisions under the homelessness legislation.

⁴⁴ The Regulations stipulate one situation where the opportunity of an oral hearing must be offered to the applicant. If the reviewer considers that there is a deficiency or irregularity in the original decision, or in the manner in which it was made, but is minded nonetheless to make a decision which is against the interests of the applicant, the reviewer shall notify the applicant that the reviewer is so minded and the reasons why and inform the applicant that they, or someone acting on their behalf, may make representations to the reviewer orally or in writing or both orally and in writing. This is the only situation where the possibility of an oral hearing before the reviewer will arise; otherwise all reviews will be conducted by means of written representations.

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⁴⁵ The Regulations stipulate the officer who reviews a decision has to be senior in rank to the original decision maker.

⁴⁶ This is restricted to licensing functions because only those functions are specified as Mandatory Council Functions.

⁴⁷ This is restricted to licensing functions because only those functions are specified as Mandatory Council Functions.

⁴⁸ This excludes the functions of seizing, retaining, destroying or otherwise disposing of wild animals;

⁴⁹ These functions are Mandatory Council Functions. The 1960 Act system of licensing caravan sites operates separately from, but supplements, the planning system. Conditions which would be imposed on planning permission generally concern the effect of the site on the surrounding area, and the conditions on a site licence under the 1960 Act generally concern the internal arrangements of the site. Appeals under the 1960 Act go to the magistrates (not the Secretary of State).

⁵⁰ These are Mandatory Council Functions. Guidance says 5.22....*all health and safety at work functions, where the local authority is regulating other businesses, must...not be the responsibility of the executive. This includes some licensing functions such as the powers to licence storage of petroleum and to licence and close premises for the keeping and selling of explosives. Responsibility for health and safety for the local authority as an employer must be the responsibility of the executive.* See the Cabinet Member for Finance and Governance's development's portfolio (below) for Health and Safety at Work matters for the Council's employees.

⁵¹ Approved by A & L Committee 5/11/2003.

⁵² These are Local Choice Council Functions. Government statutory guidance in Chapter 5 Local Government Act 2000: Guidance to English Local Authorities states that "FUNCTIONS WHICH MAY BE APPROPRIATE FOR EITHER THE EXECUTIVE, THE FULL COUNCIL OR A COMMITTEE Guidance 5.34 The Regulations provide that certain functions in respect of control of pollution (air, water and land), statutory nuisances and other environmental protection functions may be the responsibility of the executive.

⁵³ The functions in this section are Local Choice Council Functions

⁵⁴ These are Local Choice Council Functions.

⁵⁵ See the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001

⁵⁶ This is a Local Choice Council Function.

⁵⁷ These responsibilities were reviewed and re-distributed by the Leader and noted by Council on 26/04/17

⁵⁸ (This delegation is subject to the other terms of this Constitution, including the Access to Information Procedure Rules and Scrutiny Procedure Rules about urgent items and the Budget and Policy Framework Rules about decisions contrary to the Framework etc.)

⁵⁹ See Finance Rules in Part 4 of the Constitution 4.20 paragraph 19(d).

⁶⁰ See Finance Rules in Part 4 of the Constitution 4.20 paragraph 19(d).