

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

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

<b><u>Function</u></b>	<b><u>Proposed Allocation</u></b>
1.1 Determining appeals against any decision made by or on behalf of the Authority.	The Casework Appointments and Appeals Committee.
1.2 Making arrangements for hearing appeals in relation to school admissions and exclusions.	The Cabinet (but normally dealt with by the Director of Children Schools & Families under delegated powers).
1.3 Making arrangements for enabling questions on police matters to be asked at Council Meetings.	The Council (through Standing Orders).
1.4 Appointing members to the Police Authority	The Council (but may be dealt with by the County Secretary under delegated powers).
1.5 Conducting Best Value Reviews	a) The Cabinet sets the terms of reference for each review. b) The relevant Scrutiny Committee appoints a Review Group to conduct the review (but this may be dealt with by the County Secretary under delegated powers). c) The Review Group reports to its Scrutiny Committee when its recommendations are at a formative stage. d) The Cabinet considers and makes decisions on the final recommendations of the Review Group. d) The recommendations are copied to the Scrutiny Committee.
1.6 Obtaining information as to interests in land under the Town & Country Planning Act 1990 and the Local Government (Miscellaneous Provisions) Act 1976.	The Cabinet (but normally dealt with by the County Secretary under delegated powers).
1.7 Making Agreements for the execution of highway works.	The Cabinet (but normally dealt with by the Director of Environment under delegated powers).
1.8 Appointing to outside bodies.	The Council (but may be dealt with by the County Secretary 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 or 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 Control as specified in Schedule 1 A of the Regulations.
- (ii) Registration of common land or town and village greens as specified in Schedule 1 B paras. 37 and 38 of the Regulations.
- (iii) Highways and rights of way matters as set out in Schedule 1 B paras. 41, 47, 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 and on the County Council’s response to consultation from other bodies on planning matters when requested to do so.

### **2.3 The Casework Appointments & Appeals Committee is an ad hoc committee appointed by the County Secretary and summoned to deal with the matter specified on the agenda, with variable membership of up to 5 members of the Council at least one of whom must be a member of the Executive when the Committee is considering the appointment or dismissal of the Chief Executive or a chief officer. By virtue of section 17 of the Local Government Housing Act 1989 the Committee shall be exempt from the political proportionality requirements of that Act if, and to the extent that, all Leaders of political groups represented on the Council agree. The Committee has delegated to it all the functions of the Council relating to:**

- (i) the appointment, dismissal and discipline of the Chief Executive and Chief Officers
- (ii) the determination of appeals by members of staff in relation to discipline, grievance and related matters
- (iii) appeals in respect of complaints under the Access to Personal Files (Social Services) Regulations 1989
- (iv) appeals in respect of the registration of residential care homes, nurseries and childminders
- (v) those matters specified in Schedule 1 to the Regulations which are not delegated to the Development Control Committee under 2.2 above and which are capable in law of delegation to a committee.

### **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 1.7-1.13 below in respect of consultation with members
  - (iv) Policies approved by or on behalf of the Council
  - (v) Instructions from the Chief Executive 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 or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of 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 Chairman, Vice-Chairman and other Group Spokesmen on the relevant Scrutiny Committee.

### **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 County Secretary. 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 is exercising delegated authority under paragraph 2(e), 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 reference first to the relevant Scrutiny Committee.

When the timescale does not allow for reference to a scheduled Scrutiny Committee meeting, officers are authorised to respond, following consultation with the relevant Executive Member and the Scrutiny Committee Chairman and Vice-Chairman.

## **3.2 To THE CHIEF EXECUTIVE**

- (a) To authorise, after consultation with the Leader of the Council, twinning arrangements.
- (b) To incur expenditure in the event of a civil emergency.
- (c) To manage the co-ordination of budget processes, including overall strategy, planning, and information.
- (d) 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.
- (e) The functions of the Executive in relation to economic and social development and regeneration; consultation and communications; and relations with European, regional and local public bodies.

### **3.3 To THE DIRECTOR OF COMMUNITY INFORMATION**

- (a) The functions of the Executive in relation to unified public access to services; public libraries, arts and museums and the provision of schools library services,  
  
EXCEPT FOR the withdrawal or modification of public facilities.
- (b) The functions of the Executive for weights and measures and food safety; and for trading standards and consumer protection, animal health, performing animals and explosives licensing.
- (c) The functions of the Executive in relation to archives and records,  
  
EXCEPT FOR the withdrawal and modification of public facilities.
- (d) The functions of the Executive in relation to culture (including sport and recreation).

### **3.4 To THE DIRECTOR OF CHILDREN SCHOOLS & FAMILIES**

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

EXCEPT FOR

- (i) Significant variations to the Scheme of Local Management of Schools and withdrawal of delegated powers.
- (ii) Changes to fees, charges and concessions policies, including Maintenance and Clothing Allowances.
- (iii) Decisions to publish statutory notices to open or close schools or make significant changes to them.

### **3.5 To THE FINANCE DIRECTOR**

- (a) 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.
- (b) To manage the Council's banking arrangements.
- (c) To manage from day to day the:-
  - (i) County Fund and all subsidiary and associated accounts.
  - (ii) Borrowing and Lending Portfolio.
- (d) To make payments under the Council's Personal Accident Injury Scheme.

- (e) To implement national and local pay awards and increase payments under the Pension Increase Acts.
- (f) To manage the Leased Car and Car Loan Scheme.
- (g) To make leasing arrangements.
- (h) To manage the Council's Insurance arrangements.

Note The Finance Director acts as Head of Profession for all finance staff.

### **3.6 To THE HEAD OF COUNTY SUPPLIES AND CONTRACT SERVICES**

To take decisions for the purpose of purchasing goods in common use.

### **3.7 To THE CHIEF FIRE OFFICER**

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.

### **3.8 To THE COUNTY SECRETARY**

- (a) To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal.
- (b) To authorise officers of the Council to appear before Magistrates Courts or County Court Registrars.
- (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.
- (d) The functions of the Executive in relation to Registration of Births, Deaths and Marriages and the Coroners Service.
- (e) The functions of the Executive under the Crime & Disorder Act 1998 (except for Youth Justice functions for which see the Director of Children Schools & Families).

### **3.9 To THE CORPORATE DIRECTOR (PEOPLE AND PROPERTY)**

- (a) To manage central training and job evaluation (including judgement on market forces and employee benefits).
- (b) 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 and which does not fall within (e) below.

(Note: the Director can only agree property disposals for self-financing schemes where a member decision has authorised the use of a scheme.)

- (c) To act as client for all land and buildings used primarily for office purposes.
- (d) To act as client for land and buildings not in direct operational use.
- (e) To take (without limit on value) disposal, replacement, asset investment and other related decisions for the purposes of achieving effective decisions under the Local Government and Housing Act 1989 Capital Finance regulations, provided that the Executive have already agreed in principle the disposal, new asset and other projects and that no additional net capital expenditure is created.
- (f) The functions of the Executive for Health & Safety, Civil Aid and Emergency Planning.

Note The Corporate Director acts as Head of Profession for personnel staff.

### **3.10 To THE DIRECTOR OF ENVIRONMENT**

- (a) 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 smallholdings and Green Belt estates, rights of way and open spaces.
- (b) The functions of the Executive in respect of waste disposal matters.

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

- (i) Development Plans - approval of draft consultation
- (ii) Approval of Annual Structure Plan Statement arising from Monitoring reports on the Structure Plan.
- (iii) Major Trunk Road and major Motorway improvement schemes – County Council response to public draft line, side road and compulsory purchase orders.

- (iv) Major Capital County Transportation Proposals:-
  - Choosing a preferred route or option following public consultation
  - Authorising the promotion of Compulsory Purchase and Side Road Orders.
  
- (v) Passenger Transport Services
  - Implementing area-wide reviews of passenger transport services.

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

### **3.11 To THE DIRECTOR OF ADULT CARE SERVICES**

The functions of the Executive in relation to:

- (a) social services for adults
- (b) gypsy site provision
- (c) the Health Service

EXCEPT FOR

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

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

##### **4.1 Introduction**

4.1.1 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.

4.1.2 The exercise of delegated powers by officers under this Scheme is subject to the limitations set out in sections 1.4 to 1.6 of the Scheme of Delegation from the Executive to Officers; and the further provisions set out in sections 1.14 to 1.20 of that Scheme.

##### **4.2 Consultation with Members**

The exercise of delegated powers under this Scheme is subject to the requirements for member consultation set out in sections 1.7 to 1.13 of the Scheme of Delegation from the Executive to Officers 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.

##### **4.3 Finance Director**

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

##### **4.4 Chief Executive and All Chief Officers**

The power to appoint staff as specified in Schedule 1 I para. 37 of the Regulations.

##### **4.5 Director of Community Information**

The licensing and registration functions of the Council specified in Schedule 1 B paras. 22, 31, 42, 43, 44, 45 and 46 of the Regulations.

##### **4.6 Director of Children Schools & Families**

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

##### **4.7 Chief Fire Officer**

Power to issue fire certificates as specified in Schedule 1 B para. 28 of the Regulations.

#### 4.8 County Secretary

- (i) Functions in relation to the licensing of sports grounds as specified in Schedule 1 B paras. 26 and 27 of the Regulations.
- (ii) Functions in relation to approval of premises for marriages as specified in Schedule 1 B para. 36 of the Regulations.
- (iii) Functions in relation to elections as specified in Schedule 1D of the Regulations.
- (iv) Power to make Standing Orders for Contracts as specified in Schedule 1 I para. 15 of the Regulations.
- (v) Power to make payments in cases of maladministration as specified in Schedule 1 I para. 16 of the Regulations.
- (vi) Power to make appointments to Committees, Sub-Committees, Panels, Topic Groups, Best Value Review Groups, other member bodies and outside bodies.

#### 4.9 Director of Environment

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
  - approval of county matters (minerals & waste) or County Council applications 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 and 38 of the Regulations.
- (iii) Highways and rights of way matters as set out in Schedule 1 B paras. 41, 47, 48, 49, 50, 51, 52, 53, 54, 55; and in Schedule 1 I paras. 1 to 34 of the Regulations.