

## 19. Executive Scheme of Officer Delegation

### Introduction, general principles and interpretation

Certain types of decision must by law be delegated to an officer rather than being determined by councillors, e.g. the appointment and dismissal of officers below Deputy Director level; the discharge of Returning Officer duties in elections; and Proper Officer functions. Other council functions must by law be determined by councillors and not officers, e.g. setting the Budget and adopting the plans or strategies constituting the council's Policy Framework. For the majority of functions, it is a matter of local choice for the council whether they are exercised by councillors or delegated to officers.

This scheme delegates powers and duties in relation to Executive functions that are the responsibility of Leader and Cabinet Members. The scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation within those descriptions and all powers and duties incidental to that legislation.

Where functions that are the responsibility of the Leader are delegated through Cabinet members to officers or other structures outside the Cabinet, the Leader will nevertheless remain accountable to the council for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way the function is carried out, although the specific decision is the responsibility of the officer or other delegated body.

The Leader may make ad-hoc variations in relation to the scheme. Any variation affecting the generality of any delegation shall be made in writing. The variation shall be effective from the date the written notice is received by the Monitoring Officer.

The Monitoring Officer shall have the power, subject to notifying all elected councillors, to:

- (a) amend the scheme to reflect re-organisations, changes in job titles and vacancies, where the changes result in redistributing existing delegations and not the creation of new ones
- (b) amend the Constitution to correct any typographical errors or inconsistencies subsequently identified

The scheme does not delegate to officers the following:

- (a) any matter expressly reserved to the Cabinet within its terms of reference or otherwise, by standing orders or financial regulations or withdrawn from delegation by this scheme or by the Cabinet or individual Cabinet member
- (b) the making of an order for the compulsory acquisition of land
- (c) the acquisition of land in advance of requirements
- (d) the adoption, amendment (other than minor amendments) or delegation of any strategic plan or policy
- (e) the incurring of any capital or revenue expenditure in excess of the estimates allocated to a function under the relevant head of expenditure, but subject to such modifications as may be made in accordance with financial regulations
- (f) to carry out major highway creation or improvement works
- (g) to respond to planning consultations by government departments or statutory undertakers where objection or adverse comment is proposed to be made
- (h) to suspend local management from any school
- (i) to issue a public notice for any significant change to a school in terms of number of pupils, age range, type or status of school, closure or merger, or creation of a new school

- (j) the taking of decisions in contravention of any existing council policy

All delegated functions shall be deemed to be exercised on behalf and in the name of the council.

Certain Executive decisions taken by officers must be recorded and published, in accordance with the Protocol for Recording and Publishing Officer Decisions (see Part 5 Section 3).

### **General principles/common officer Executive delegations**

Chief Officers and their direct reports are authorised within their areas of responsibility, subject to the following conditions:

- (a) The Chief Executive will maintain and publish a list of services for which each Director is responsible, and in relation to which they have delegated powers under this scheme. The Chief Executive has authority to amend that list and this scheme, to reflect operational necessity and in order to deliver continually improving services.
- (b) Powers shall be exercised in accordance with the law, the council's procedure rules, financial regulations, contract procedure rules and any policies relevant to the functions delegated.
- (c) Chief Officers are empowered to:
  - (i) make such decisions and initiate such actions as they deem necessary in the interests of efficient delivery and improvement of services within their area of responsibility
  - (ii) implement manage and deliver Executive policies and decisions
  - (iii) make amendments to the structure of their department, subject to consultation with the relevant Cabinet member
  - (iv) make appointments to a post within their approved budget and take such decisions in relation to human resources as are appropriate for the proper management of the service
  - (v) implement the council's human resources policies as shall apply at any time
  - (vi) authorise officers to carry out the council's functions under all legislation, regulations, orders and statutory codes of practice, to include entry of premises, inspections and signing and service of notices in relation to the council's enforcement functions
  - (vii) in an emergency, to take such action as is necessary within the law to protect life, health, and safety, the economic social or environmental well-being of the Island, and to preserve property belonging to the council or others
  - (viii) enter into contracts, review their operation, establish and maintain approved lists of contractors of suppliers and the appointment of consultants, subject to the financial regulations, the procurement rules, contract standing orders and budgetary provision
  - (ix) authorise legal proceedings in respect of offences under acts, regulations, bylaws or orders within the remit of the service area, and with the approval of the Strategic Manager for Legal Services
- (d) Once a member-level decision has been taken, the implementation of that decision should be delegated to officers, so that multiple member decisions are not required in respect of the same matter
- (e) The fact that a function is delegated to an officer does not prevent that officer from referring any decision to the Cabinet or Cabinet member at their discretion, especially if the decision is controversial or of strategic importance

- (f) When exercising delegated powers, officers should consider referring a decision to Cabinet or the relevant Cabinet member where the decision:
  - (i) involves significant expenditure to the service budget, or wider council budget
  - (ii) affects the reputation or carries a significant risk for the service and/or council
  - (iii) is significant with regard to one or more divisions
  - (iv) impacts reputationally or financially on service users, partner organisations or committees outside the council
- (g) The Leader or the relevant Cabinet member may direct that a delegated Executive power should not be exercised by an officer but should instead be referred to the Cabinet, Cabinet member or relevant committee. Such direction should be exercised in consultation with the relevant Director.
- (h) Chief Officers have responsibility to report to Full Council, Cabinet, Cabinet member, the appropriate committee or relevant local councillors (and following this the relevant Parish/Town Council) matters that are of a political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position
- (i) Officers authorised to exercise delegated powers are required to keep councillors properly informed of activity arising within the scope of their delegations and to ensure a proper record of such activity is kept and available for inspection in accordance with the legislation
- (j) “Function” is construed broadly and includes the doing of anything that is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions
- (k) A Director is not required to exercise all delegations personally and may authorise officers of suitable experience and seniority to exercise delegated powers, either generally or specifically, on their behalf. A Director must maintain a list of all such authorisations, as part of a comprehensive service scheme of delegation
- (l) Officers exercising delegated powers related to financial matters (such as raising invoices, writing-off debts, paying invoices or disposing of assets) shall be aware at all times of the statutory responsibility of the Director of Finance under the Local Government Act 1972 and of the need to comply with the Financial Regulations (see Part 3 Section 19) and all the instructions and guidance issued by them and to seek their advice as necessary
- (m) If office of any employee of the council is vacant, or the employee is absent or otherwise unable to act, the most suitable senior officer available is authorised to exercise the responsibilities of the vacant office and such action shall be recorded in writing by the relevant Director, or in the event of a Director, by another Director
- (n) Any post specifically referred to below shall be deemed to include any successor post, or a post that includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded or discharging the functions of the post on an interim basis

### Specific Officer Delegations

The officer delegations (below) set out the officers empowered to undertake the specified Executive decisions or actions on behalf of the council:

Post	Summary of Functions and Areas of Responsibility
<b>Chief Executive (Head of</b>	The Chief Executive holds the statutory designation of Head of Paid Service and, in addition to those functions listed below, is responsible for the following functions:

Post	Summary of Functions and Areas of Responsibility
<b>Paid Service)</b>	<ul style="list-style-type: none"> <li>(a) Overall corporate management and operational responsibility for all officers</li> <li>(b) Reviewing the staffing structure, capacity, skills and performance of the council to ensure that they match the needs of the community, financial constraints, strategic priorities and statutory obligations.</li> <li>(c) Determining the management structure and the deployment of staff</li> <li>(d) Ensuring: <ul style="list-style-type: none"> <li>(i) human resource management complies with current council policy and standards</li> <li>(ii) propriety and observance of codes of conduct by all council staff</li> <li>(iii) compliance with and observance of all established council policies</li> </ul> </li> <li>(e) Having all the powers of any other officer in the event of their absence or inability to act, except in so far as the exercise of such powers is by law limited to a specific post holder, e.g. the Chief Executive may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.</li> <li>(f) Reporting to Full Council on the manner in which the discharge of the council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation, appointment and proper management of officers</li> <li>(g) Fostering a culture that demonstrates a positive outlook and continuous improvement</li> <li>(h) Managing the interface between elected councillors and officers to ensure effective delivery of the Vision and Corporate Plan.</li> <li>(i) Leading the medium-term budget strategy, change management and overall council performance.</li> <li>(j) Exercising the relevant functions of the Leader in relation to the overall strategic direction, policies and priorities of the Cabinet, including the overall corporate revenue and capital budget strategy and ensuring that appropriate systems are in place to assure the performance management of the authority</li> <li>(k) Overseeing the implementation of the council's policies and developing mechanisms to enable priorities to be set and choices to be exercised by elected councillors in the allocation of finance and other resources</li> <li>(l) Ensuring strategically led improvements in the quality and efficiency of service delivery and devising and maintaining systems to deliver good governance, including performance management, risk management and ethics/probity structures</li> <li>(m) Ensuring a sound strategic framework exists so that council policy is informed, helped and clarified, giving such policies a clear strategic direction, supported by realistic action plans</li> <li>(n) Working with elected members to build and develop strong relationships with existing and potential key partners (local, regional and national) across all sectors to develop effective partnership working and collaboration for the benefit of the Island community.</li> <li>(o) Providing professional advice to all parties in the decision-making process</li> <li>(p) Maintaining a system of record keeping for all the council's decisions, together with the Monitoring Officer</li> <li>(q) Authorising urgent action between Cabinet meetings where necessary, in consultation with the Monitoring Officer, Chief Finance Officer, political groups,</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<p>the Leader and/or relevant Cabinet members, and ensuring the chairman of the Corporate Scrutiny Committee is (where practicable) notified before the decision is made and then notified once the decision has been made</p> <ul style="list-style-type: none"> <li>(r) Authorising the acquisition of properties in accordance with the approved commercial property investment strategy, in consultation with the Chief Finance Officer and the relevant Cabinet member</li> <li>(s) Arranging for the council to be represented on partnership and external bodies as required by statute or the council</li> <li>(t) Ensuring that the council communicates with those who receive its services, its partners in service delivery and its various communities, explaining, interpreting, listening and consulting in a wide ranging and effective way</li> <li>(u) Leading and managing Emergency Management</li> <li>(v) Incurring expenditure in the event of a civil emergency</li> <li>(w) During the period between the date of retirement of councillors following council elections and the next Annual Meeting of the council, where a matter requires a decision (whether an Executive or a Non-Executive function), having consulted with the Leader-elect (when notified in writing) and such members of the council as they consider appropriate, make the decision and authorise on an exceptional basis the relevant action</li> <li>(x) Granting dispensations in respect of conflicts of interest declared by an Executive member making a decision, or declared by an Executive member consulted by a councillor or officer taking such a decision</li> </ul>
<b>Assistant Chief Executive</b>	<p>The Assistant Chief Executive acts as deputy to the Chief Executive and assists with the efficient and effective delivery of council business activity, including:</p> <ul style="list-style-type: none"> <li>(a) Strategically leading and managing a service portfolio that includes strategic planning, corporate communications, strategic partnerships and organisational intelligence.</li> <li>(b) Leading the development and approval of corporate strategies necessary to deliver the council's strategic priorities, in particular the One Public Service initiative, commerciality and income generation, housing and the Island Plan.</li> <li>(c) Leading and managing the implementation of a Core Strategy</li> </ul>
<b>Director of Corporate Services</b>	<p>Acts as chief professional advisor to the Chief Executive, corporate management team and elected councillors on matters affecting the organisation within the corporate services portfolio of services, including:</p> <ul style="list-style-type: none"> <li>(a) Exercising the relevant functions of the Cabinet Member for Strategic Finance, Corporate Resources and Transformational Change in relation to their portfolio; the Deputy Leader and Cabinet Member for Community Safety and Digital Transformation in respect of the ICT elements of their portfolio; Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services for the Human Resources, Legal and Democratic Services elements of their portfolio; and the Cabinet Member for Strategic Finance, Corporate Resources and Transformational Change in respect of the procurement elements of their portfolio.</li> <li>(b) Leading and managing legal and democratic services; elections and land charges; human resources; health and safety; equality and diversity; information governance; procurement; ICT and digital services; workforce and organisational development and business centre (including council tax and</li> </ul>

Post	Summary of Functions and Areas of Responsibility
	<p>business rate administration); housing benefit; facilities management; payroll pensions and income and payments.</p> <p>(c) As chairman of the Procurement Board</p> <p>(d) As Returning Officer for local elections, Acting Returning Officer for parliamentary elections and Local Returning Officer for Police and Crime Commissioner elections (including the ability to appoint deputies for these roles)</p> <p>(e) As Electoral Registration Officer for the Isle of Wight</p>
<p><b>Chief Finance Officer (Section 151 Officer)</b></p>	<p>The Chief Finance Officer is responsible for the financial affairs of the council in accordance with section 151 of the Local Government Act 1972, ensuring lawfulness and financial prudence of decision-making, including:</p> <p>(a) Exercising the relevant functions of the Deputy Leader and Cabinet Member for Resources in relation to their portfolio.</p> <p>(b) Acting as the council's Chief Finance Officer to ensure the proper administration of the council's financial affairs and that appropriate financial practices and procedures are in place to meet these requirements</p> <p>(c) After consulting with the Chief Executive and the Monitoring Officer, reporting to Full Council (or the Cabinet in relation to an Executive function) and the council's external auditor if any proposal, decision or course of action is unlawful, involves the incurring of unlawful expenditure or the use of inappropriate funds</p> <p>(d) Administration of the financial affairs of the council, including the provision of an Internal Audit function</p> <p>(e) Delivering a balanced budget and sustainable Medium Term Financial Strategy for the council</p> <p>(f) Monitoring the council's financial performance and advising the council of the robustness of its budgets and the adequacy of its reserves Promoting the development of improved financial practices, procedures, controls and business processes, to ensure the services enabled and delivered by the council continue to be affordable</p> <p>(g) Responsibility for the overall financial administration of the Isle of Wight Pension Fund</p> <p>(h) Ensuring all reports submitted to councillors for consideration meet the required quality of accuracy and assessment of the financial issues to be considered</p> <p>(i) Contributing to the corporate management of the council, in particular through the provision of professional financial advice</p> <p>(j) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all councillors and supporting and advising councillors and officers in their respective roles</p> <p>(k) Giving financial information to the media and members of the public and the community</p>
<p><b>Monitoring Officer</b></p>	<p>The Monitoring Officer undertakes the responsibilities defined in law and the Constitution, including:</p> <p>(a) Acting as the council's chief legal and governance advisor to ensure it operates lawfully and within the agreed Constitution</p>

Post	Summary of Functions and Areas of Responsibility
	<ul style="list-style-type: none"> <li>(b) Maintaining an up-to-date version of the Constitution and ensuring it is widely available to councillors, staff and the public</li> <li>(c) Ensuring lawfulness and fairness of decision making. After consulting with the Chief Executive and Chief Finance Officer, the Monitoring Officer will report to Full Council (or to the Cabinet in relation to an Executive function) if any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration</li> <li>(d) Ensuring that all reports submitted to councillors for consideration meet the required quality of accuracy and assessment of the legal issues to be considered</li> <li>(e) Conducting investigations into alleged breaches of the Member Code of Conduct and arranging for such reports to be considered by the Appeals Committee, where appropriate</li> <li>(f) In consultation with an Independent Person, to deal with requests for dispensations relating to Disclosable Pecuniary Interests without the need for a meeting of the Appeals Committee, where appropriate</li> <li>(g) Advising whether Cabinet decisions are within the Policy Framework</li> <li>(h) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Policy Framework issues to all councillors</li> <li>(i) The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service</li> <li>(j) The Monitoring Officer Protocol attached to this Constitution sets out the statutory base of this position (see Part 5 Section 10)</li> </ul>
<b>Director of Neighbourhoods</b>	<p>Responsible for exercising the relevant functions of the Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services, the Cabinet Member for Community Protection, Regulatory Services and Waste, the Deputy Leader and Cabinet Member for Digital Transformation, Housing, Homelessness and Poverty and Cabinet Member for Infrastructure, Highways PFI and Transport in relation to their portfolio, and for leading and managing:</p> <ul style="list-style-type: none"> <li>(a) Commercial Services, including Recreation, Leisure, Public Spaces, Public Realm, Libraries, Registrars, and Rights of Way.</li> <li>(b) Environmental Health, Trading Standards, Licensing, Community Safety and Housing Renewals.</li> <li>(c) Highways and Transport, including the Highways PFI contract and Waste and Recycling.</li> </ul>
<b>Director of Regeneration</b>	<p>Responsible for exercising the relevant functions of the Cabinet Member for Levelling Up, Regeneration, Business Development and Tourism; the Cabinet Member for Planning and Enforcement; the Cabinet Member for Climate Change, Environment, Heritage, Human Resources and Legal and Democratic Services and the Cabinet Member for Infrastructure, Highways PFI and Transport in relation to their portfolios and for leading and managing:</p> <ul style="list-style-type: none"> <li>(a) On economy and tourism to develop and promote economic growth for the Island, including the attraction of inward Investment and development of commercial services</li> </ul>

<b>Post</b>	<b>Summary of Functions and Areas of Responsibility</b>
	<p>(b) Planning Services, Planning Policy (with the exception of the adoption of a revised Core Strategy), AONB, Conservation, Ecology, Local Sustainable Transport Fund, Building Control and Lead Local Flood Authority.</p> <p>(c) Economic development, tourism and asset management.</p>
<b>Director of Children's Services</b>	<p>Holds the statutory designation of Director of Children's Services with responsibility for discharging the statutory functions for Education and Children's Social Care (as defined in s.18(2) Children Act 2004) and the strategic delivery of all of the council's education and children's social care services, including:</p> <p>(a) Exercising the relevant functions of the Cabinet Member for Children's Services, Education and Lifelong Skills in relation to their portfolio</p> <p>(b) Providing strategic leadership and development of the local education and children's services sector.</p> <p>(c) Working with head teachers, school governors and academy sponsors and principals to support the drive for high educational standards for all children and young people, paying particular attention to the most disadvantaged groups</p> <p>(d) Ensuring clear and effective arrangements to protect children and young people from harm, in accordance with the law</p> <p>(e) Ensuring that children's services are integrated across the council, and that statutory partners, the local voluntary and community sector, parents and children and young people themselves are included in the scope of the council's planning, commissioning and delivery of children's services where appropriate</p> <p>(f) Undertaking strategic needs assessments for children and their families with actual or potential needs across the local authority area in conjunction with the Director of Adult Social Care and Director of Public Health</p> <p>(g) Leading and managing services for children and young people, including education, social care, safeguarding, youth service and learning and development. Act as the professional advisor to members of the council</p>
<b>Director of Adult Social Care</b>	<p>Undertakes the statutory Director of Adult Social Services role, including:</p> <p>(a) Exercising the relevant functions of the Cabinet Member for Adult Social Care and Public Health and Housing Needs in relation to their portfolio</p> <p>(b) Providing professional leadership for council staff and local partnerships in the provision of adult social care services (including operational housing)</p> <p>(c) Ensuring that relevant professional and occupational standards and standards of conduct are maintained across adult social care services provided by or commissioned by the council</p> <p>(d) Undertaking strategic needs assessments for adults and families with actual or potential social care needs across the area, in conjunction with the Director of Children's Services and Director of Public Health</p> <p>(e) Ensuring clear and effective arrangements to assess and meet the care needs of eligible service users and to protect vulnerable adults from harm, in accordance with primary legislation, particularly the Care Act 2014 and Health and Social Care 2012</p> <p>(f) Ensuring that Adult Services are integrated across the council, and that statutory partners, the local voluntary and community sector and service users</p>

Post	Summary of Functions and Areas of Responsibility
	<p>themselves are included in the scope of the council's planning, commissioning and delivery of Adult Services where appropriate</p>
<p><b>Director of Public Health</b></p>	<p>Provides strategic leadership for the delivery of the council's duties to improve public health and carries out public health functions under Schedule 1 of the National Health Service Act 2006 and subsequent regulations, including:</p> <ul style="list-style-type: none"> <li>(a) Exercising the relevant functions of the Cabinet Member for Adult Social Care and Public Health and Housing Needs in relation to their portfolio</li> <li>(b) Exercising the duty to take steps to improve the health of the people in the area</li> <li>(c) Exercising functions prescribed by Secretary of State in relation to dental public health</li> <li>(d) Exercising public health functions required to be carried out by regulations issued or delegated by the Secretary of State for health protection or health improvement</li> <li>(e) Leading the exercise of the council's functions in planning for, and responding to, emergencies that present a risk to public health.</li> <li>(f) Leading the production of the Joint Strategic Needs Assessment, Joint Strategy on Health and Wellbeing and delivering the annual public health report.</li> <li>(g) Exercising the duty to cooperate with the prison service with a view to improving, securing and maintaining the health of prisoners</li> <li>(h) Exercising functions under s.325 Criminal Justice Act 2003 (cooperating with 'responsible bodies' in relation to the assessment of risks posed by certain offenders)</li> <li>(i) Commissioning or ensure the provision of service that underpins public and health improvement</li> </ul>
<p><b>Chief Fire Officer<sup>5</sup></b></p>	<p>The Chief Fire Officer ensures that the council meets its legal responsibilities for an effective fire and rescue service to be provided across the Island, together with:</p> <ul style="list-style-type: none"> <li>(a) Exercising the relevant functions of the Deputy Leader and Cabinet Member for Community Protection, Regulatory Services and Waste in relation to their portfolio</li> <li>(b) The provision, training and equipping of the Isle of Wight Fire and Rescue Service to undertake; firefighting, protection of people and property from fire</li> <li>(c) Fire safety promotion, road traffic collision rescues and other emergency responses to civil emergencies</li> <li>(d) Leading on community safety and playing a major role in civil protection and ensuring that there is an integrated approach to handling civil emergencies</li> </ul>

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<sup>5</sup> Review once CFA established.