

Committee: FULL COUNCIL

Agenda Item

Date: 15 May 2012

Title: SCHEME OF DELEGATION

Author: Maggie Cox – Democratic Services Officer Item for decision

Summary

1. Under the Council's Constitution the Council is required to approve a Scheme of Delegation at the annual meeting. Under the constitutional amendments recommended for approval at this meeting, approval of the scheme will now only be required at the first meeting of the Council after the election of a new Council. The delegation scheme is still however required to be submitted to this meeting and this is attached, incorporating the changes that have been made during 2011/12.

Recommendations

2. That members approve the Scheme of Delegation.

Financial Implications

3. None. There are no costs associated with the recommendations.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	None arising from this report.
Community Safety	None arising from this report.
Equalities	None arising from this report.
Health and Safety	None arising from this report.
Human Rights/Legal Implications	Decisions of committees of officers which are not within the scheme of delegation are subject to legal challenge.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Risk Analysis

6.

Risk	Likelihood	Impact	Mitigating actions
Decisions are challenged on the basis that they are not within Delegated Powers.	3, there is currently increasing scrutiny of the authority of committees and officers to take decisions.	2, in most cases any defect can be rectified by referring the decision up for re-consideration although in some cases the Council may face a threat of judicial review.	That the Scheme of Delegation be kept under review.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

SCHEME OF DELEGATION OF COUNCIL FUNCTIONS

GENERAL DELEGATION TO COMMITTEES CHIEF OFFICERS AND DEPUTY CHIEF OFFICERS

(In this scheme of delegation chief officers and deputy chief officers have the meanings assigned to them by s.2 Local Government & Housing Act 1989)

The functions of the Council referred to below are delegated to the designated committees and officers.

THE PLANNING COMMITTEE

1. Functions relating to town and country planning and development control as specified in paragraph A Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) save for power to acquire a listed building in need of repair and to serve a repairs notice under s.47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
2. Power to create footpaths, bridleways or restricted byways by agreement
3. Power to make public path creation orders
4. Power to make public path extinguishment orders and rail path extinguishment orders subject in each case to confirmation by the Secretary of State
5. Power to divert footpaths bridleways and restricted byways
6. Power to authorise the stopping up or diversion of a footpath, bridleway or restricted byway under s.257 Town and Country Planning Act 1990
7. Power to extinguish public rights of way for planning purposes under s, 258 Town and Country Planning Act 1990
8. Powers in relation to hedgerows under the Hedgerows Regulations 1997
9. Powers relating to the preservation of trees under the Town and Country Planning Act 1990
10. Powers relating to high hedges
11. Powers in respect of common land and town and village greens under the Commons Act 2006

THE LICENSING AND ENVIRONMENTAL HEALTH COMMITTEE

1. Functions relating to licensing and registration in respect of the following matters:-
 - 1.1 animal boarding establishments, dangerous wild animals, dog breeding, performing animals, pet shops, riding establishments and zoos
 - 1.2 game and game dealers
 - 1.3 house to house and street collections
 - 1.4 hackney carriages, private hire vehicles, drivers and operators under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976
 - 1.5 pleasure boats under Public Health Acts Amendment Act 1907
 - 1.6 movable dwellings and camp sites under Public Health Act 1936
 - 1.7 caravan sites under Caravan Sites and Control of Development Act 1960
 - 1.8 scrap yards under the Scrap Metal Dealers Act 1964
 - 1.9 tables, chairs and other items on pedestrian areas of highways under the Highways Act 1980
 - 1.10 sex establishments under the Local Government (Miscellaneous Provisions) Act 1982
 - 1.11 street trading under the Local Government (Miscellaneous Provisions) Act 1982
 - 1.12 acupuncture, tattooing, ear-piercing and electrolysis under the Local Government (Miscellaneous Provisions) Act 1982
 - 1.13 food premises under the Food Safety Act 1990
 - 1.14 operation of loudspeakers under the Noise and Statutory Nuisance Act 1993
 - 1.15 licensable activities under the Licensing Act 2003
 - 1.16 houses in multiple occupation under the Housing Act 2004
 - 1.17 the Gambling Act 2005 to include the power to set fees in accordance with regulations made there under
2. Functions in relation to health, safety and welfare in connection with work and control of dangerous substances to the extent that the functions are

discharged by the authority otherwise than in its capacity as an employer under Part 1 Health and Safety at Work etc Act 1974

3. Functions relating to smoke free premises
4. Power to designate a public place for the purposes of police powers relating to alcohol consumption
5. Power to make or revoke an alcohol disorder zone
6. Power to pass a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply within the Authority's area

THE STANDARDS COMMITTEE

- 1 The function of advising the Council on the adoption or variation of a Code of Conduct.
- 2 Promoting high standards of conduct by members and co-opted members
- 3 Assisting members and co-opted members to observe the Code of Conduct.
- 4 Monitoring the operation of the Code of Conduct.
- 5 Providing training to members and co-opted members on the Code of Conduct.
- 6 Granting dispensations to members under s.33 Localism Act 2011.
- 7 Determining whether complaints of a breach of the code of conduct should be referred for investigation.
- 8 Receiving reports from the Monitoring Officer or investigators appointed by the Monitoring Officer into complaints of a breach of the Code of Conduct; determining such complaints and deciding what action to take with regard to any breaches found to have been proved
- 9 With regard to Parish and Town Council's within the District:-
 - a) the functions referred to in paragraph 7 above.
 - b) Receiving reports from the Monitoring Officer or investigators appointed by the Monitoring Officer into complaints of a breach of the Code of Conduct by Parish and Town Councillors; advising the parish and Town Council concerned whether there has been a breach of the Code of Conduct and recommending what action the Parish or Town Council should take with regard to any breaches found to have been proved

ALL CHIEF OFFICERS & DEPUTY CHIEF OFFICERS

In consultation with the Chairman of the appropriate committee or, where he or she is not available, the Vice Chairman Chief Officers and Deputy Chief Officers have delegated authority to take any action which would normally require committee approval but which requires an urgent decision subject to that action being in accordance with Council policy and within budget. Such a decision is to be reported to the next meeting of the appropriate Committee with a full explanation of the reasons for the decision and the urgency.

THE CHIEF EXECUTIVE

1. The development of the Council's corporate policies.
2. The development of corporate strategies.
3. Public relations and consultation relating to matters which are Council functions.
4. Power to make payments or provide benefits in cases of maladministration
5. All functions delegated to chief officers and deputy chief officers under this Scheme of Delegation

THE ASSISTANT CHIEF EXECUTIVE – FINANCE

1. To certify the annual calculation of the Council Taxbase
2. To certify the draft Statement of Accounts in accordance with the Accounts and Audit (England) Regulations 2011
3. To determine financial administrative procedures and systems pursuant to discharging statutory responsibilities for making arrangements for the proper administration of the Council's financial affairs under the Local Government Act 1972
4. To review and authorise employees' subsistence and expense rates at 1 April each year in line with national agreements or locally approved variations
5. To respond to consultations of a technical nature relating to local government finance and audit matters
6. To provide other certifications and authorisations required of the Section 151 Officer
7. To comment on and approve documents prepared by the External Auditor prior to consideration by the Performance and Audit Committee

THE ASSISTANT CHIEF EXECUTIVE – LEGAL

1. Authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including any appeals
2. Authorise officers of the Council to appear on behalf of the Council before courts and tribunals
3. Grant applications for licenses and for registration of premises, persons and vehicles and the amendment or transfer of such licenses or registrations where such applications meet policy guidelines adopted by the Council or the Licensing and Environment Committee
4. Determine whether representations made in respect of licensing matters or applications for reviews of licences are valid or may be rejected as being vexatious, frivolous or repetitious
5. Refusal of licenses and registrations where such applications do not meet policy guidelines adopted by the Council or the Licensing and Environment Committee
6. Issue of statutory notices and certificates
7. Issue of statutory notices, registrations and certificates in respect of charitable collections and gaming
8. To suspend licenses issued under Part II Local Government (Miscellaneous Provisions) Act 1976 for a period not exceeding 2 weeks where there has been a breach of condition or an alleged offence where in the view of the Assistant Chief Executive – Legal a prosecution would not be appropriate
9. To suspend licenses under s.61 Local Government (Miscellaneous Provisions) Act 1976 (as amended) immediately if in his or her opinion it is in the interests of public safety that the suspension should have immediate effect such suspension to last until the day after the next meeting of the Licensing and Environment Committee
10. Subject to the provision of a satisfactory statutory declaration to grant an application for a licence where the Council requires a criminal record check where the applicant is in possession of a check to the level required by the Council which is not more than 18 months old and to revoke any licence if a false declaration is made
11. Subject to the provision of a satisfactory statutory declaration to grant an application for renewal of a licence granted by the Council where the Council requires a criminal record check but a check to the level required by the Council is not immediately available and to revoke any licence if a false declaration is made
12. To grant applications for consent to place tables and chairs and other items on pedestrian areas of the highway subject to conditions where such applications fall within the policy previously adopted by the Licensing Committee or any

amendment or amendments thereto made by the Licensing and Environment Committee and to refuse applications which do not fall within that policy

DIRECTOR OF CORPORATE SERVICES

1. Implementation of national provincial and local agreements and amendments to conditions of service
2. The approval of pensionable ill health retirement in consultation with the Leader of the Council or cabinet member authorised by him or her

DIRECTOR OF PUBLIC SERVICES

1. All functions delegated to the Divisional Head of Planning and Building Control under this Scheme of Delegation

ASSISTANT DIRECTOR PLANNING AND BUILDING CONTROL

- 1 Carry out any functions laid out in the Schedule below, except for the determination of:
 - 1.1 Any application to implement permission otherwise than in accordance with conditions imposed by Committee, within 10 years of the grant of permission;
 - 1.2 Any application a member has called in for a planning reason within the agreed time period;
 - 1.3 Any application the granting of which would represent a departure from the Development Plan where the departure application is to be notified to the Secretary of State under the terms of the Town and County Planning (Development Plans and Consultation) (Departures) Directions 1999);
 - 1.4 Approval of Major Applications (as defined by the GDPO) in Great Dunmow, Saffron Walden and Stansted and approval of applications of more
 - 1.5 Any proposal involving the District Council either as applicant or landowner, either on its own, or jointly with another individual or body;
 - 1.6 Applications which would otherwise be delegated but which the Assistant Director Planning and Building Control considers should come before the Committee.
- 2 Carry out all functions related to the enforcement of planning legislation contained in the Schedule except that the issue of all formal notices must be jointly authorised by the Assistant Chief Executive - Legal.

- 3 Carry out all functions related to appeals against planning and enforcement decisions made by Uttlesford District Council.
- 4 All powers conferred under this section shall be subject to all duties and obligations contained in the Human Rights Act 1998 and all primary and secondary legislation concerning equal opportunities.

The Schedule

All functions concerning the Council's role as Local Planning Authority contained in the following primary legislation and all subordinate legislation made thereunder.

AGRICULTURAL LAND (REMOVAL OF SURFACE SOIL) ACT 1953
ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979
ANTI-SOCIAL BEHAVIOUR ACT 2003
BUILDINGS ACT 1984
BUILDING (LOCAL AUTHORITY CHARGES) REGULATIONS 1998
CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960
CLEAN AIR ACT 1956
COMPULSORY PURCHASE (VESTING DECLARATIONS) ACT 1981
PUBLIC HEALTH ACT 1925
ECCLESIASTICAL EXEMPTION (LISTED BUILDINGS AND CONSERVATION AREAS) ORDER 1994
ESSEX ACT 1987
EUROPEAN COMMUNITIES ACT 1972
GREEN BELT (LONDON AND HOME COUNTIES) ACT 1938
HEDGEROW REGULATIONS 1997
HIGHWAYS ACT 1980
LAND COMPENSATION ACT 1961
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
LOCAL GOVERNMENT PLANNING AND LAND ACT 1980
LOCALISM ACT 2011
PASTORAL MEASURES ACT 1983
PLANNING AND COMPENSATION ACT 1991
PLANNING AND COMPULSORY PURCHASE ACT 2004
PLANNING (HAZARDOUS SUBSTANCES) ACT 1990
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
PUBLIC HEALTH ACTS
REGULATORY AND INVESTIGATION PROCEDURES ACT 2000
THE ENVIRONMENT ACT 1995
THE HEALTH ACT 2006
TOWN AND COUNTRY PLANNING ACT 1959
TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

and the power contained in s.111 Local Government Act 1972 and s.2 Local Government Act 2000, so far as the use of such powers is incidental to the exercise of the functions of a Local Planning Authority under the legislation listed above, subject to prevailing common law and statutory duties and obligations concerning the use of those powers (advice on this point can be obtained from the Assistant Chief Executive - Legal).