

## **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
2. the Gambling Act 2005 to include the power to set fees in accordance with regulations made there under 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 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 AUDIT AND 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. Receiving reports from the Monitoring Officer or investigators appointed by the Monitoring Officer into complaints of a breach of the Code of Conduct: determine such complaints and deciding what action to take with regard to any breaches found to have been proved.
7. With regard to parish and town councils within the district:-  
receiving reports from the Monitoring Officer or investigators appointed by the Monitoring Officer into complaints of a breach of the code of conduct by town or parish councillors: advising the parish or 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

## GOVERNANCE, AUDIT AND PERFORMANCE COMMITTEE

~~The functions of the Council referred to below are delegated to the Governance, Audit and Performance Committee~~

- ~~1.8.~~ To monitor the performance of the Council and progress against ~~improvement audit~~ plans; to oversee the Council's internal audit and risk functions; to receive and approve external audit reports; to scrutinize and approve the annual statement of accounts; to make reports and recommendations to the executive, committees and the Council as a whole on its ~~performance management and~~ corporate governance as appropriate.
- ~~2.9.~~ To consider the Internal Audit Manager's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- ~~3.10.~~ To consider summaries of specific internal audit reports as requested.
- ~~4.11.~~ To consider reports dealing with the management and performance of the providers of internal audit services.
- ~~5.12.~~ To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
- ~~6.13.~~ To consider the external auditor's Annual Letter, relevant reports, and reports to those charged with governance.
- ~~7.14.~~ To consider specific reports as agreed with the external auditor.
- ~~8.15.~~ To comment on the scope and depth of external audit work and to ensure it gives value for money.
- ~~9.16.~~ To make arrangements for the appointment of the Council's external auditor and to be responsible for appointing the external auditor under any successor arrangements.
- ~~10.17.~~ To commission work from internal and external audit.
- ~~11.18.~~ To maintain an overview of the Council's contract procedure rules and financial regulations and to monitor compliance therewith.

- ~~12.19.~~ To review any issue referred to it by the Chief Executive or a Director, or any Council body.
- ~~13.20.~~ To monitor the effective development and operation of risk management and corporate governance in the Council.
- ~~14.21.~~ To monitor council policies on whistleblowing and the anti-fraud and corruption strategy and the Council's complaints process;
- ~~15.22.~~ To oversee the production of the authority's Annual Governance Statement and to agree its adoption;
- ~~16.23.~~ To oversee the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- ~~17.24.~~ To monitor the Council's compliance with its own and other published standards and controls.
- ~~18.25.~~ To review and approve the annual statement of accounts for publication. Specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
- ~~19.26.~~ To consider the external auditor's report to those charged with governance issues arising from the audit of the accounts.
- ~~20.27.~~ Carry out and give effect to the outcome of Community Governance Reviews of parish boundary and electoral arrangements, including the power to make orders for creating, abolishing or altering parishes, grouping or degrouping parishes, or dissolving parish councils.
- ~~21.28.~~ Carry out and give effect to the outcome of statutory and interim reviews of polling districts and polling places.
- ~~22.29.~~ To make recommendations to the Full Council on its discharge of the following functions, subject to powers delegated to officers:
- a) Duty to appoint an electoral registration officer
  - b) Power to assign officers in relation to the requisitions of the registration officer
  - c) Duty to appoint a Returning Officer for local government elections
  - d) Duty to provide assistance at Parliamentary and all other nationally funded elections and referendums
  - e) Power to pay expenses properly incurred by electoral registration officers
  - f) Power to make temporary appointments to parish councils
  - g) Power to submit proposals to the Secretary of State for a pilot scheme for local elections
  - h) Duty to consult on a change of scheme for elections
  - i) Power to alter the years of ordinary elections of parish councillors
  - j) Functions relating to the change of name of an electoral area
  - k) Power to change the name of the district
  - l) Power to confer the title of Honorary Alderman or to grant the freedom of the district
  - m) Power to petition for a charter to confer borough status
  - n) Power to make, amend, revoke, re-enact or enforce byelaws
  - o) Power to promote or oppose local or personal bills
  - p) Functions relating to local government pensions etc
  - q) Power to make standing orders including standing orders as to contracts
  - r) Power to appoint staff and to determine the terms and conditions upon which they hold office
  - s) Duty make arrangements for the proper administration of financial affairs etc under s.151 Local Government Act 1972
  - t) Power to appoint "proper officers"
  - u) Duties with regard to the appointment of a Head of Paid Service and Monitoring Officer
  - v) Power to adopt a scheme permitting co-opted members of overview and scrutiny committees to vote under paragraphs 12 and 14 schedule 1, Local Government Act 2000

- w) Power to make payments or provide benefits in cases of maladministration
- x) Duty to adopt a code of conduct for members under the Localism Act 2011
- y) Powers in respect of holding elections
- z) Power to fill vacancies on parish councils in the event of insufficient nominations
- aa) Declaration of vacancy in office in certain cases
- bb) Giving notice of casual vacancies in office
- cc) Duties relating to publicity under the Local Government and Public Involvement In Health Act 2007
- dd) Duties relating to notice to the Electoral Commission

## **ALL CHIEF OFFICERS & DEPUTY CHIEF OFFICERS**

### **Scheme of delegations from Council to officers**

#### **Introduction**

This scheme has been adopted by Uttlesford District Council and is the list of delegations to officers under Section 101 of the Local Government Act 1972 (as amended) and all other powers enabling delegations to officers. It is adopted with the intention of giving a clear, transparent and accountable decision-making process.

References to powers of “the Council” include those exercisable by the Executive.

1. Officers may only exercise the delegated powers in this scheme in accordance with:
  - a. statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice;
  - b. the Constitution of the Council, including standing orders, contract standing orders and financial regulations;
  - c. the revenue and capital budgets of the Council, subject to any variation thereof which is permitted by the Council's Financial Regulations;
  - d. consideration of the Council's policies.
2. Officers may not exercise delegated powers where:
  - a. the matter is reserved to the Council or the executive by law or by the Council's Constitution;

- b. the matter is a function which cannot by law be discharged by an officer;
  - c. the Council, a committee or sub-committee has determined that the matter should be discharged otherwise than by an officer.
3. Where an officer has delegated powers, the Council or a committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.
4. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Council.
5. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation, the person with the delegated powers, if time allows, must consult someone else they reasonably consider to be an appropriate substitute consultee.
6. Any function which has been delegated to a post holder identified in this scheme does not require that person to give the matter their personal attention and they may arrange for such function to be exercised by an officer whom they judge to be of suitable experience and seniority. However, the postholder remains responsible for any decision taken pursuant to such arrangements.
7. The delegated powers held by an officer may be exercised by the Head of Paid Service, the relevant Assistant Director or by the line manager of that officer (or by the line manager's line manager) if:
  - That post is vacant; or
  - The post holder is not at work for any reason.
8. Any post holder identified in this scheme may appoint, nominate or otherwise authorise inspectors and other officers or persons to act under any legislation relevant to their part of the scheme of delegation.
9. Any reference in this scheme of delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
10. Where an officer has delegated authority to discharge functions
  - by virtue of any other provision of this Constitution, or
  - through a specific decision of the Council, a committee, a sub-committee, either before or after the adoption of this scheme

the absence of the delegation from this scheme shall not prevent the exercise of the delegation.

11. Decisions shall be recorded and published in accordance with the Council's policies in this regard.
12. Authorisations to carry out surveillance under the Regulation of Investigatory Powers Act (RIPA) 2000 may be granted by the authorised officers designated for that purpose under the Council's RIPA Policy.
13. A non-exhaustive list of specific statutory responsibilities and the postholder to whom they are delegated forms an Appendix to this Part.

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 CHIEF FINANCE OFFICER**

1. To certify the annual calculation of the Council Tax base
2. To certify the Council's Business Rate estimates
3. To certify the draft Statement of Accounts in accordance with the Accounts and Audit Regulations 2015
4. 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
5. To review and authorise employees' subsistence and expense rates at 1 April each year inline with national agreements or locally approved variations
6. To respond to consultations of a technical nature relating to local government finance and audit matters
7. To provide other certifications and authorisations required of the Section 151 Officer
8. To comment on and approve documents prepared by the External Auditor prior to consideration by the Governance, Audit and Performance Committee



**ASSISTANT DIRECTOR: GOVERNANCE AND LEGAL**

1. Authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal including any appeals
2. Take any necessary legal action to protect the interests of the Council.
3. Authorise officers of the Council to appear on behalf of the Council before courts and tribunals

**MONITORING OFFICER**

1. Power to grant dispensations under s.33 Local Government Act 2011 to district, parish and town councillors who have disclosable pecuniary interests to speak and/or vote on issues relating to such interests and to grant dispensations under the Code of Conduct to district, parish and town councillors with other pecuniary interests to speak and/or vote on issues relating to such interests.
2. To act as the Council's Responsible Officer under the Public Interest Disclosure Act 1998 as amended.

**DIRECTOR OF FINANCE AND 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

**ASSISTANT DIRECTOR HOUSING AND HEALTH**

1. Grant applications for licences and for registration of premises, persons and vehicles and the amendment or transfer of such licences or registrations where such applications meet policy guidelines adopted by the Council or the Licensing and Environmental Health Committee
2. 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
3. Refusal of licenses and registrations where such applications do not meet policy guidelines adopted by the Council or the Licensing and Environmental Health Committee
4. Issue of statutory notices and certificates
5. Issue of statutory notices, registrations and certificates in respect of charitable collections and gaming
6. 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 Director - Governance and Legal a prosecution would not be appropriate
7. To suspend licences 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 Environmental Health Committee

8. 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
9. 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
10. The submission of objections to the Traffic Commissioners or other licensing authority for applications for Goods Vehicle Operators Licences.
11. 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 and Environmental Health Committee or any amendment or amendments thereto made by the Committee and to refuse applications which do not fall within that policy
12. To grant licences in cases where a driver has a pending prosecution for a motoring offence which is in the opinion of the Assistant Director - Governance and Legal is unlikely to attract 6 points or more on the driver's licence

#### **DIRECTOR: PLANNING & 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 where the application was accompanied by an Environmental Statement;
  - 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 Country Planning (Consultation) (England) Direction 2009
  - 1.4 Approval of major applications which fall into the category of a major application (as defined by the Town and Country Planning (General Permitted Development) Order 1995.
  - 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 Any application where the applicant is an officer of the Council, an



- elected Member or a spouse, child or partner.
- 1.7 Applications which would otherwise be delegated but which the Assistant Director Planning and Building Control considers should come before the Committee.
  - 1.8 Any application for a Deed of Variation to a s106 Agreement which is an alteration to a Head of Term agreement by Planning Committee.
  2. Carry out all functions related to the enforcement of planning legislation contained in the Schedule.
  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) TOWN AND COUNTRY  
PLANNING (ENVIRONMENTAL IMPACT  
ASSESSMENT) REGULATIONS 2011

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 Director Governance and Legal).