

## PART 12

### SCHEME OF DELEGATION

#### 12.1 INTRODUCTION

12.1.1 Within the limitations specified below, discharge of the Council's executive functions is delegated to the Chief Executive, Directors and specific officers.

12.1.2 This Scheme of Delegation ("the Scheme") sets out the procedures to be followed in the performance of delegated executive functions. It is an extremely important part of the corporate governance framework that helps to guarantee the integrity of the Council's business processes. The requirement for officers to comply with the Scheme is mandatory and standardised in relevant officers' Job Descriptions. Consistent or significant failure to comply with the Scheme would therefore be a matter for disciplinary investigation.

12.1.3 For the purposes of this Scheme:

- a) The 'Leader' is the Leader of the Council as elected by the Council.
- b) A 'Cabinet Member' is a member appointed as such by the Leader.
- c) A 'portfolio' is the area of Council activity allocated by the Leader to a Cabinet Member.
- d) The term 'Corporate Management Board' is used in this document to refer to the following postholders acting in their individual capacities rather than collectively as the Board:
  - I. The Chief Executive.
  - II. The Director of Adult & Community Services.
  - III. The Director of Children's Services.
  - IV. The Director of Corporate & Customer Services.
  - V. The Director of Environment.
  - VI. The Director of Resources.
  - VII. The Head of Human Resources.
- e) There are three 'Statutory Officers', as follows:
  - I. The **Head of Paid Service (Chief Executive)** who reports to the Council on the way in which the discharge of the Council's functions is co-ordinated, the number and salary of employees needed to discharge those functions, and the organisation of those employees.
  - II. The **Monitoring Officer (Head of Legal & Democratic Services)** who is responsible for advising on any proposal, decision or omission actually or potentially giving rise to a breach of law or of any statutory code of practice or maladministration.

- III. The **Chief Finance Officer (Director of Resources)** who is responsible for the proper administration of the Council's financial affairs.
- f) There are four 'Heads of Profession', with specific delegations, as follows:
  - I. The **Head of Human Resources**: all human resources and employee health & safety issues.
  - II. The **Head of Financial Services**: all contracting and procurement issues relating to works, goods and services, also the deputy Chief Finance Officer role.
  - III. The **Head of Asset Management & Property Services**: all land and property issues.
  - IV. The **Head of ICT** in respect of all information and communications technology hardware, software, systems and support services.

12.1.4 For the purposes of this Scheme, any reference to any legislation, statutory regulation, schedule of an Act, Code of Practice, etc. shall be construed to include any amendments that may be made to them from time to time.

## **12.2 LIMITATIONS**

12.2.1 This Scheme does not delegate to officers:

- a) Any matter reserved by law or by the Constitution to the Council, Cabinet, Committee or Sub-Committee of the Council.
- b) Any matter which by law may not be delegated to an officer.
- c) A Key Decision as defined in the Council's Constitution.

12.2.2 Officers may only exercise delegated powers in accordance with:

- a) The Budget and Policy Framework Rules approved by the Council.
- b) The budget approved by the Council.
- c) The Council's Constitution including its Contract Procedure Rules and Financial Procedure Rules as set out in Appendices 4 and 5 of the Constitution.
- d) Any statutory restrictions, statutory guidance or statutory code of practice.

12.2.3 In exercising delegated powers, officers shall:

- a) Act within the Council approved revenue and capital budgets for the relevant service, subject to any variation permitted by the Council's Financial Procedure Rules or the Director of Resources under delegated authority.
- b) Comply with the restrictions set out in paragraph 12.2.2 above and consult with the Council's Statutory Officers as appropriate before making a decision.
- c) Comply with any professional standards or operational policies of the Council and consult with the Head or Heads of Profession relevant to the matter under consideration.

## **12.3 SUB-DELEGATION**

- 12.3.1 This Scheme authorises members of the Corporate Management Board to further delegate any function that has been delegated to them under this Scheme to another officer or officers. Sub-delegations can be temporary arrangements and are to be made to individuals rather than posts.
- 12.3.2 Every sub-delegation shall be in writing, setting out the confines and accountability for the function and the terms and conditions for the performance of it.
- 12.3.3 Each member of the Corporate Management Board shall record all sub-delegations in a register maintained for the purpose by them. These registers are to be kept in line with the Council's policies for the retention of documents.

## **12.4 CABINET MEMBER DECISIONS**

### **Definition**

- 12.4.1 Cabinet Member Decisions are those that do not fall within the definition of an Administrative Decision (see 12.5) and are not Key Decisions as defined in the Council's Constitution.
- 12.4.2 Each member of the Corporate Management Board is responsible for identifying and advising on Cabinet Member Decisions and managing the process in line with the arrangements set out below.

### **Reports**

- 12.4.3 Before asking a Cabinet Member to take a decision, the member(s) of the Corporate Management Board concerned shall draft a report using a pro-forma prepared by the Head of Legal & Democratic Services identifying:
- a) The title of the report.
  - b) The Cabinet Member portfolio(s) concerned.
  - c) The report author and telephone contact details.
  - d) The date the report will be considered.
  - e) The restrictions on publishing the Cabinet Member Decision report which will be determined by reference to Sections 100 and 100A to 100K of the Local Government Act 1972.
  - f) The electoral wards affected.
  - g) The purpose of the report, that is, the issue to be decided.
  - h) The recommendations being proposed.
  - i) The reasons for those recommendations.
  - j) The issues taken into consideration such as:
    - I. the facts of the matter;

- II. any legislative requirements;
  - III. any Council policies relating to the issue; and
  - IV. any relevant national or regional guidance.
- k) The alternative options available with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
  - l) The employment/staffing implications.
  - m) The legal issues.
  - n) The financial implications, both strategic and operational.
  - o) The risk management issues.
  - p) The implications for any other areas of the Council's activities and crosscutting themes.
  - q) Confirmation from the report author that comment has been sought from the Statutory Officers, Heads of Profession and any another member of the Corporate Management Board affected by the proposals.
  - r) The appendices.
  - s) The background papers and reporting 'route map'.

#### **Consultation**

12.4.4 The member(s) of Corporate Management Board concerned shall then send a copy of the draft Cabinet Member Decision report to:

- a) The Cabinet Member(s) whose portfolio(s) includes the area of activity under consideration or, if unavailable for any reason or has a personal and prejudicial interest in the matter, the Leader or alternative Cabinet Member nominated by the Leader.
- b) Any local Member whose ward might be affected.
- c) All Statutory Officers.
- d) All relevant Heads of Profession.
- e) Any other member of the Corporate Management Board who is responsible for services that might be affected by the proposed decision.

#### **Objections**

12.4.5 The Cabinet Member and other consultees listed in 12.4.4 have 5 working days after receiving the draft report to object in writing to the report.

#### **Determination**

12.4.6 If no objections are received, the Cabinet Member must sign the report to confirm his/her agreement to the recommendations. The member(s) of Corporate Management Board concerned can then implement the decision.

12.4.7 If a consultee has objected to the proposed decision, the report will be referred to Cabinet. The member(s) of Corporate Management Board concerned shall not take

any action in respect of the proposed recommendations until Cabinet has determined the matter.

- 12.4.8 The member(s) of Corporate Management Board concerned shall send a copy of the report to the Head of Legal & Democratic Services who will include it on the agenda for the next convenient Cabinet meeting. Cabinet shall determine the recommendations of the member(s) of Corporate Management Board.

#### **Referring to Cabinet**

- 12.4.9 A member of Corporate Management Board may consider that an issue is too important to be decided by a Cabinet Member. In discussion with their Cabinet Member, the member of Corporate Management Board may report the matter to Cabinet in such circumstances.

#### **Urgent Cabinet Member Decisions**

- 12.4.10 Cabinet Members have the power to take an Executive Decision in exceptional circumstances even if the full decision-making process has not been followed.

- 12.4.11 If a member of Corporate Management Board is of the opinion that an Executive Decision should be taken by a Cabinet Member more urgently than the decision-making process allows – for example to prevent or reduce risk to persons, property or the Council's interests – the member of the Corporate Management Board shall:

- a) Use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons they would normally have consulted had the full decision-making process been followed before advising the Cabinet Member on the decision to be made.
- b) Ensure that a report in the format outlined in 12.4.2 is written promptly and includes the reasons for taking the decision urgently. The report must be sent the Head of Legal & Democratic Services to present to the next convenient Cabinet meeting.

#### **Recording Cabinet Member Decisions**

- 12.4.12 A member of Corporate Management Board drafting a Cabinet Member Decision report shall provide the Head of Legal & Democratic Services with the signed agreement of the Cabinet Member within two working days of the date of the decision.

- 12.4.13 The Head of Legal & Democratic Services shall publish all Cabinet Member Decisions within 5 working days of the date of the decision.

- 12.4.14 The Head of Legal and Democratic Services shall ensure that a record of Cabinet Member Decisions is published and reported to the relevant Scrutiny Committee. This record shall also be available for public inspection during normal office hours. The public shall have the right to copy, or to be provided with a copy, of any part of that record upon payment of a reasonable copying and administrative charge.

- 12.4.15 The record of Cabinet Member Decisions shall include the member of Corporate Management Board's report supporting the Decision subject to any requirement for confidentiality.

#### **Call-in Mechanism**

- 12.4.16 Where a Cabinet Member Decision involves expenditure or reductions in service in total of more than £500,000, then that decision is provisional unless the Council has previously approved the specific expenditure or reduction.

- 12.4.17 A provisional Cabinet Member Decision will be notified in accordance with the Scrutiny Committee rules.

- 12.4.18 A provisional Cabinet Member Decision may be called in under the terms of the Council's scrutiny procedure rules.
- 12.4.19 A provisional Cabinet Member Decision can be implemented if not called-in.

### **Accountability**

- 12.4.20 Members of the Corporate Management Board are accountable to the Council for every Cabinet Member Decision they advise on. They may be required to report to and attend a Strategic Monitoring Committee or Scrutiny Committee in respect of their advice on Cabinet Member Decisions.

## **12.5 ADMINISTRATIVE DECISIONS**

### **Definition**

- 12.5.1 Administrative Decisions are day-to-day operational decisions delegated to officers. Directors are encouraged to take responsibility for Administrative Decisions to assist with the effective discharge of the Council's functions.
- 12.5.2 A decision is deemed to be an Administrative Decision unless it:
- a) Is a Key Decision as defined in the Council's Constitution.
  - b) Is a reserved decision.
  - c) Is not included in the approved budget.
  - d) Conflicts with the Council's Budget and Policy Framework.
  - e) Raises new issues of policy.
  - f) Involves any of the following:
    - I. changing employees' employment contracts or TUPE transfer employees;
    - II. acquiring or disposing of land or property outside of the specific designations to the Head of Asset Management & Property Services;
    - III. viring capital or revenue budget of more than the prevailing European procurement limit for supplies and services (currently £144,000);
    - IV. accepting a tender for a capital or revenue contract in excess of the European procurement limits for supplies or services (currently £144,000); or
    - V. accepting any tender for a contract that involves a departure from the Contract Procedures Rules.
  - g) Involves making, approving or publishing a draft order, scheme or plan that may require, either directly or in the event of an objection, the approval of a Secretary of State.
  - h) Requires the passage of local order or the adoption by the Council of national legislation.
  - i) Proposes an ex-gratia payment or payment of a sum in settlement of a complaint against the Council or in local settlement of an Ombudsman complaint.
  - j) Is in response to an Ombudsman finding of maladministration with injustice.

- k) Proposes to write-off a debt to the Council of more than £20,000.
- l) Proposes an alteration in the charges that the Council makes for any of its services other than allowed for in the Financial Procedure Rules.
- m) Raises an objection from any of the Statutory Officers or a Head of Profession.
- n) A member of the Corporate Management Board is of the opinion it should be treated as an Executive Decision.

### **Consultation**

12.5.3 Members of the Corporate Management Board do not have to prepare or publish a formal written report in respect of an Administrative Decision. However, they are responsible for ensuring that appropriate written records of the advice sought from the Statutory Officers and Heads of Profession are kept.

12.5.4 If an Administrative Decision proposes the write-off of a debt to the Council, the Director of Resources/Head of Benefit & Exchequer Services must be consulted on the application of the relevant Financial Procedure Rules.

### **Referring an Administrative Decision**

12.5.5 This Scheme encourages members of the Corporate Management Board to take responsibility for Administrative Decisions. However, members of the Corporate Management Board can decide to treat an Administrative Decision as a Cabinet Member Decision in which case the arrangements set out in Section 12.4 apply.

### **Recording and Reporting Administrative Decisions**

12.5.6 There is no requirement to report Administrative Decisions to Council, Cabinet, Committees or Sub-Committees.

12.5.7 Members of the Corporate Management Board are responsible for ensuring that all those who need to know about Administrative Decisions are informed promptly.

### **Retaining Records**

12.5.8 Members of the Corporate Management Board are responsible for retaining a record of Administrative Decisions that they take and the reasons for them. The records kept must be sufficient for audit and evidential purposes (for example Judicial Review, Employment Tribunal, Ombudsman, Audit Commission, OFSTED or other proceedings or investigation).

12.5.9 Members of the Corporate Management Board are responsible for ensuring that records supporting Administrative Decisions are stored securely and for the period required in the Council's policy on document retention.

## **12.6 REPORTS TO COUNCIL, CABINET, COMMITTEES OR SUB-COMMITTEES**

### **Corporate Management Board's Responsibilities**

12.6.1 Members of the Corporate Management Board are responsible for ensuring that reports are drafted in accordance with the protocol set out in this section of the Scheme of Delegation. **This includes obtaining comments from the Statutory Officers, Heads of Profession, any other Directors, relevant Cabinet Members and other Members affected by the proposals contained in the report in good time.**

12.6.2 Any reports presented to the Head of Legal & Democratic Services that have not been drafted in accordance with this Scheme and do not contain confirmation that these

consultations have taken place are to be deferred by him/her until the process outlined in section 12.6 has been followed.

**Forward Plan**

- 12.6.3 Members of the Corporate Management Board are responsible for identifying reports that need to be incorporated into the Forward Plan.

**Report Format**

- 12.6.4 All reports must be prepared using the pro-forma prescribed by the Head of Legal & Democratic Services for Council, Cabinet, Committees, Sub-Committees and Cabinet Member decisions.

- 12.6.5 The Head of Legal & Democratic Services may prescribe a pro-forma specific to Council, Cabinet, each Committee, each Sub-Committee and Cabinet Member decision. Each pro-forma will however be designed to capture the following information as a minimum:

- a) The title of the report.
- b) The Cabinet Member(s) portfolio(s) concerned.
- c) The meeting the report will be considered at.
- d) The date of the meeting the report is to be considered.
- e) The name of the report author and telephone contact details.
- f) The restrictions on publishing the report as set out in Sections 100 and 100A to 100K of the Local Government Act 1972.
- g) The electoral wards affected.
- h) The purpose of the report, that is, the issue to be decided.
- i) Whether the decision is a Key Decision or not, the reasons why in either case, and whether there are any Forward Plan implications.
- j) The recommendations being proposed.
- k) The reasons for those recommendations.
- l) The issues taken into consideration such as:
  - I. the facts of the matter;
  - II. any legislative requirements;
  - III. any Council policies relating to the issue; and
  - IV. any relevant national or regional guidance.
- m) The alternative options available with a financial assessment of those options provided or supervised by the Director of Resources or sub-delegated officer.
- n) The employment/staffing implications – comments must be agreed with the Head of Human Resources.



- o) The legal issues – comments must be agreed with the Head of Legal and Democratic Services.
- p) The financial implications, both strategic and operational – comments must be agreed with the Director of Resources, in their absence the Head of Financial Services, or their nominated representative.
- q) The risk management issues – comments must be agreed with the Risk & Insurance Manager.
- r) The consultations undertaken and the views expressed by the consultees.
- s) The implications for any other areas of the Council's activities and crosscutting themes.
- t) Confirmation from the report author that comment has been sought from the Statutory Officers, Heads of Profession and any another member of the Corporate Management Board affected by the proposals.
- u) The appendices.
- v) The background papers and reporting 'route map'.

#### **Finalising Reports**

- 12.6.6 The Chief Executive is responsible for giving final approval to all reports scheduled for Council and Cabinet once he is satisfied that the Director of Resources and Head of Legal & Democratic Services have been properly consulted.
- 12.6.7 Directors and the Head of Human Resources are responsible for giving final approval to all reports scheduled for Committees and Sub-Committees once they are satisfied that the Statutory Officers have been properly consulted.

#### **Agenda Despatch**

- 12.6.8 Members of the Corporate Management Board are responsible for ensuring that their reports are available for the Head of Legal & Democratic Services to despatch with respective agenda papers.
- 12.6.9 Members of the Corporate Management Board shall make every endeavour to ensure that a report subsequent to release of the agenda only happens in exceptional circumstances in the interest of efficiency and to aid effective decision-making.
- 12.6.10 Directors and the Head of Human Resources are to take personal responsibility for seeking approval from the Chief Executive for late despatch of a report to Council and Cabinet prior to the agenda being printed. The Chief Executive will discuss the position with the Leader before confirming late despatch is acceptable.
- 12.6.11 Directors and the Head of Human Resources are to take personal responsibility for agreeing late despatch of any of their reports to Committees or Sub-Committees with the Chair of the relevant Committee or Sub-Committee before the agenda is due to be printed.

### **12.7 GENERAL DELEGATIONS TO THE CHIEF EXECUTIVE AND DIRECTORS**

#### **General**

- 12.7.1 Members of the Corporate Management Board are authorised to act on behalf of the Council in relation to any matters within the service area for which they are responsible and as set out in Appendices 18, 22 and 23, subject to the limitations set out in 12.2.

- 12.7.2 Members of the Corporate Management Board are expected to maintain a close liaison with the relevant Cabinet Members and Committee Chairmen.
- 12.7.3 Members of the Corporate Management Board are expected to consult with the Councillors for the local electoral ward areas that might be affected by the exercise of their delegated powers.
- 12.7.4 Members of the Corporate Management Board will comply with the Protocol for Member / Officer Relations as set out in the Council's Constitution.
- 12.7.5 Directors and the Head of Human Resources are expected to ensure the Chief Executive is consulted when appropriate and kept informed.
- 12.7.6 An authorised officer can exercise any power conferred on a member of the Corporate Management Board in their absence or at other times subject to 12.3.
- 12.7.7 Members of the Corporate Management Board and the Monitoring Officer shall take all necessary steps to protect or advance the business interests of the Council after having consulted with the relevant Cabinet Member, Committee Chairman or full Cabinet as appropriate. Any such action shall be reported to the appropriate body. The roles and responsibilities of the Statutory Officers are set out in 12.8, 12.13 and 12.18.
- 12.7.8 Members of the Corporate Management Board are authorised to decide whether the Common Seal of the Council should be affixed to a document. It must be affixed to all contracts with a total value in excess of the prevailing European procurement limits.
- 12.7.9 Directors and the Head of Human Resources are authorised, having consulted with the Chief Executive, to give notice of their intention to make a written report to the full Council on a proposed decision they consider to be contrary to or not in compliance with the Council's Constitution, policies or government advice. Members of the Corporate Management Board may not take any further action to implement the decision being challenged and the matter will be automatically reported to the Cabinet or Council for decision or recommendation as appropriate. A special Council meeting may have to be arranged in order that the matter can be considered promptly.
- 12.7.10 Members of the Corporate Management Board are responsible for ensuring the Council's Criminal Records Bureau policies and procedures are followed.
- 12.7.11 Members of the Corporate Management Board, whether acting individually or corporately, are responsible for:
- Contributing to the effective leadership of the Council.
  - Contributing to the management of the Council.
  - Ensuring the Council's financial resources are well managed.
  - Contributing to cross-authority issues and to the development of the Council.
- Asset Management & Property Services**
- 12.7.12 Members of the Corporate Management Board may in consultation with the Head of Asset Management & Property Services declare Council land or property surplus to requirements.
- 12.7.13 Members of the Corporate Management Board may in consultation with the Head of Asset Management & Property Services arrange for sessional lettings of Council premises for periods of less than 24 hours.

- 12.7.14 Members of the Corporate Management Board may in consultation with the Head of Asset Management & Property Services propose the acquisition of land or property in accordance with the provisions of the Asset Management Plan and Capital Strategy.
- 12.7.15 Members of the Corporate Management Board may in consultation with the Head of Asset Management & Property Services propose the acquisition of a leasehold interest in land or property in accordance with the provisions of the Asset Management Plan and Capital Strategy.
- 12.7.16 Members of the Corporate Management Board and Heads of Service shall ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter land or property until a lease or agreement, in a form approved by the Director of Resources and the Head of Legal & Democratic Services, has been agreed.
- 12.7.17 Members of the Corporate Management Board shall ensure the proper security of all buildings and other assets under their control.
- 12.7.18 Members of the Corporate Management Board shall periodically review the Council's land and property in order to identify any that are surplus to requirements.
- 12.7.19 Where Council-owned land and buildings are identified as surplus to requirements, a recommendation for the sale of land should be the subject of a joint report by the Chief Executive or Director and the Director of Resources.
- 12.7.20 Where the use of Council land or property is subject to a proposal for a change of use, the member(s) of the Corporate Management Board concerned shall consult with the Director of Resources. The Director of Resources will refer such proposals to the Cabinet Member (Resources) and relevant Cabinet Member(s) for approval, having provided advice on the alternative options to that proposed.
- 12.7.21 Members of the Corporate Management Board shall pass title deeds to the Head of Legal & Democratic Services. The Head of Legal & Democratic Services is responsible for custody of all title deeds.
- 12.7.22 Members of the Corporate Management Board ensure that no Council asset is subject to third party or personal use by an employee or Member without proper authority.
- 12.7.23 Members of the Corporate Management Board shall ensure the safe custody and proper recording and use of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- 12.7.24 Members of the Corporate Management Board shall ensure that a register of moveable assets is kept in compliance with arrangements defined by the Director of Resources.
- 12.7.25 Members of the Corporate Management Board shall ensure assets are identified, their location recorded and that they are appropriately security marked and insured.
- 12.7.26 Members of the Corporate Management Board shall consult the Director of Resources in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

#### **Financial management**

- 12.7.27 Members of the Corporate Management Board shall ensure that the relevant Cabinet Member is advised of the financial and legal implications of all proposals to change existing or develop new services. Members of the Corporate Management Board are

responsible for securing financial and legal advice from the Director of Resources and Head of Legal & Democratic Services respectively.

- 12.7.28 Members of the Corporate Management Board shall ensure that all proposals to change existing or develop new services are identified as a result of a full options appraisal process that includes a financial assessment of the options identified that is delivered or supervised by the Director of Resources or his/her nominated representative.
- 12.7.29 The Director of Resources is to prepare Financial Procedure Rules and Contract Procedure Rules for formal adoption by the Council. Members of the Corporate Management Board are responsible for promoting these formal requirements and ensuring compliance with them in their areas of responsibility.
- 12.7.30 Members of the Corporate Management Board are responsible for ensuring that a Scheme of Financial Delegation is in place for their area of responsibility. The Scheme of Financial Delegation is to set out the arrangements for the discharge of their responsibilities contained in the Council's Contract Procedure Rules and Financial Procedure Rules and is to be kept up to date.
- 12.7.31 Members of the Corporate Management Board are responsible for ensuring that budget estimates reflecting agreed service plans are prepared in line with guidance issued by the Director of Resources.
- 12.7.32 Members of the Corporate Management Board are authorised to sign contracts with third parties on behalf of the Council provided the expenditure to be incurred is necessary, the appropriate budget approval is in place and the action complies in all other respects with the Council's Financial Procedure Rules and Contract Procedure Rules.
- 12.7.33 Before any commitments are incurred, members of the Corporate Management Board are responsible for consulting with the Director of Resources and seeking his/her written approval regarding any matters that are not included in the approved budgets and are liable to materially affect the Council's finances (amounts greater than the prevailing European procurement limit for supplies and services which is currently £144,000).
- 12.7.34 Members of the Corporate Management Board are to draw to the attention of their employees the existence and content of the Council's Contract Procedure Rules and Financial Procedure Rules and related guidance prepared by the Director of Resources. Members of the Corporate Management Board shall ensure that these documents are readily available for reference within their Directorates.
- 12.7.35 Members of the Corporate Management Board are responsible for ensuring that officers they propose to include in their Schemes of Financial Delegation have attended the mandatory in-house financial management training appropriate to their level of financial responsibility before being authorised to exercise those responsibilities.
- 12.7.36 Members of the Corporate Management Board are responsible for managing service delivery within the agreed revenue and capital budgets for their area of responsibility. For revenue budgets, the permitted tolerance is +1% of the in year budget. For capital budgets, the tolerance is +5% of approved capital budget over the lifetime of the project. These tolerances will allow for approved in-year changes to budgets and take account of any properly authorised urgent decisions.
- 12.7.37 Members of the Corporate Management Board are responsible for identifying budget 'windfalls' (for example income from fees and charges in excess of budget) or budget

no longer required for the purpose for which it was approved (for example a capital project that is no longer to proceed). Additional financial capacity shall be considered a corporate resource and allocated in line with corporate priorities.

- 12.7.38 Members of the Corporate Management Board are responsible for providing performance information that contributes to effective financial modelling for budget setting and outturn forecasting purposes.
- 12.7.39 Members of the Corporate Management Board are responsible for ensuring team, service and Directorate risk registers are established and maintained in line with the Council's Risk Management Strategy.
- 12.7.40 Members of the Corporate Management Board are responsible for ensuring that works, goods and services are purchased from preferred Council suppliers where such have been identified.
- 12.7.41 Members of the Corporate Management Board are responsible for ensuring that the Director of Resources and/or the Head of Legal & Democratic Services or nominated representatives have immediate access if required to any assets, documents staff or systems.
- 12.7.42 Members of the Corporate Management Board are responsible for taking immediate remedial action if the financial governance arrangements in their area of responsibility do not achieve the required standard, conducting recorded investigation(s) and instigating disciplinary proceedings if appropriate. They shall report the incident in writing to the Director of Resources.
- 12.7.43 Members of the Corporate Management Board are required to work together to ensure that all fundamental systems achieve as a minimum a 'satisfactory' internal audit opinion.
- 12.7.44 Members of the Corporate Management Board are responsible for ensuring that all fundamental systems and financial systems are reconciled on a monthly basis.

#### **Human Resources**

- 12.7.45 Members of the Corporate Management Board are authorised to appoint, dismiss, discipline and determine all other matters relating to the employment of staff subject to the requirements set out in the Council's Constitution (Appointment and Discipline of Employees) and in accordance with the Council's terms and conditions of employment. The Chief Executive and Directors can sub-delegate such responsibilities in accordance with 12.3.
- 12.7.46 Members of the Corporate Management Board are responsible for ensuring action is taken in the event that an employee consistently fails to meet the agreed standards of performance in their role.
- 12.7.47 Members of the Corporate Management Board and all other officers will comply with the Code of Conduct for Employees and will be required to formally acknowledge receipt and understanding of the Code.

### **12.8 SPECIFIC DELEGATIONS TO THE CHIEF EXECUTIVE**

#### **Statutory Officer Responsibilities**

- 12.8.1 The Chief Executive as Head of Paid Service will discharge the statutory responsibilities of the Head of Paid Service and is responsible for reporting to the Council on the manner in which the discharge by the Council of its functions is co-ordinated.

12.8.2 The Head of Paid Service shall have the right of access to all Members both individually and collectively and to the Council, Cabinet and any Committee or Sub-Committee. This does not extend to any meetings held by or on behalf of any political group.

**Other Responsibilities**

12.8.3 The Chief Executive shall be authorised to act on behalf of the Council in relation to all functions relating to elections as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time.

12.8.4 The Chief Executive is responsible for the overall corporate management of the Council and has overall management responsibility for all employees.

12.8.5 The Chief Executive is responsible for the provision of professional advice to all officers and Members on the decision making process.

12.8.6 The Chief Executive (or in his absence the Head of Legal & Democratic Services) is authorised to attest the application of the Common Seal of the Council to a document in a book provided for the purpose with sequentially numbered entries.

12.8.7 In the absence of the Head of Legal & Democratic Services, the Chief Executive is authorised to authenticate documents needed for legal proceedings or legal agreements, contract notices or orders under hand on behalf of the Council if no other authorised person is available to do so.

12.8.8 The Chief Executive is responsible for reviewing and enforcing the Council's Anti-Fraud and Corruption policy except for matters relating to housing and Council Tax benefit.

**12.9 SPECIFIC DELEGATIONS TO THE DIRECTOR OF ADULT & COMMUNITY SERVICES**

12.9.1 To have responsibility for the following activities:

- a) Economic and Community Services.
- b) Strategic Housing Services.
- c) Adult Social Care Services.

12.9.2 To undertake the statutory Director of Adult Social Services (DASS) role.

12.9.3 To authorise modifications or diversions to Public Rights of Way.

12.9.4 To act as the Receiver for adults unable to manage their own affairs.

12.9.5 To ensure the Council meets its statutory responsibilities in respect of housing, libraries, parks, countryside and Public Rights of Way development.

12.9.6 To represent the Council on the Supporting People Commissioning Board.

12.9.7 To represent the Council on the Herefordshire Community Safety and Drugs Partnership.

12.9.8 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

## **12.10 SPECIFIC DELEGATIONS TO THE DIRECTOR OF CHILDREN & YOUNG PEOPLE'S SERVICES**

- 12.10.1 To carry out the functions of the Council as a Children's Services Authority including those functions referred to in Section 18(1) of the Children Act 2004 (as amended from time to time) and set out in the Statutory Guidance for Director of Children's Services and Lead Member Children's Services dated 2004.
- 12.10.2 To carry out the function of the Council as Local Education Authority including the functions of the Council relating to child employment and the youth service but excluding functions relating to adult learning and further and higher education set out in Section 18(3) of the Children Act 2004 (as amended from time to time).
- 12.10.3 To exercise functions under the Local Authority Society Services Act 1970, so far as they relate to children, and ensure local authority functions are discharged with regard to the need to safeguard and promote the welfare of children through the delivery of services which support:
- a) Hereford Safeguarding Children Board (HSCB);
  - b) Children looked after by the Council, children fostered or adopted and those on the protection register;
  - c) Social care services to vulnerable children and young people, and their families;
  - d) Children subject to child protection;
  - e) Children in need, including those with a disability;
  - f) Emotionally and behaviourally disturbed children; and
  - g) Any other vulnerable child or young person.
- 12.10.4 To exercise any health related functions exercised on behalf of any National Health Service body under Section 75 of the National Service Health Act 2006.
- 12.10.5 To establish, maintain and operate a children information database.
- 12.10.6 To prepare and publish a Children & Young Persons Plan.
- 12.10.7 To be responsible for the administration and planning of the review of organisation of schools within the County.
- 12.10.8 To carry out the functions of the Council in relation to early years/Education and care.
- 12.10.9 To carry out the functions of the Council in relation to Youth Offending Services.
- 12.10.10 To be responsible for the development of Corporate Parenting.
- 12.10.11 To carry out the functions of the Council as an Adoption Agency.
- 12.10.12 To carry out the functions of the Council under section 31 of the Health Act 1999 (as amended from time to time) so far as those functions relate to children.
- 12.10.13 To carry out the functions of the Council under sections 23C to 24D of the Children Act 1989 (as amended from time to time). (After care arrangements, etc).

- 12.10.14 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.
- 12.10.15 To discharge the functions allocated to the Lead Member for Children's Services comprising:
- a) The Council's Performance and Partnership activities in relation to children and young people;
  - b) The Council's commissioning activities in relation to children and young people;
  - c) The improvement of schools and the provision of resources and support services to schools, including planning and information;
  - d) School organisation and admissions;
  - e) Education for children with special needs;
  - f) Early years education and childcare;
  - g) Exclusions from schools, and children at risk of offending; and
  - h) Home to school transport.
- 12.10.16 To establish a Children's Trust, engaging partners as required in the Children's Act 2004.
- 12.10.17 To ensure appropriate and robust monitoring functions in terms of Value for Money in liaison with the Schools Forum and partners.

**12.11 SPECIFIC DELEGATIONS TO THE DIRECTOR OF CORPORATE & CUSTOMER SERVICES**

- 12.11.1 To have responsibility for the following activities:
- a) Policy and Performance.
  - b) Legal and Democratic Services (except with reference to the Monitoring Officer).
  - c) Information and Communications Technology and Customer Services.
  - d) Communication.
  - e) Herefordshire Partnership.
  - f) Emergency Planning.
  - g) Corporate Programmes/Herefordshire Connects.
- 12.11.2 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.



## **12.12 SPECIFIC DELEGATIONS TO THE DIRECTOR OF ENVIRONMENT**

12.12.1 To have responsibility for the following activities:

- a) Planning Services.
- b) Highways & Transportation Services.
- c) Environmental & Trading Standards Services.
- d) Environmental Support Services.

12.12.2 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

12.12.3 The Director of Environment is authorised to:

- a) Discharge any function relating to contaminated land.
- b) Discharge any function relating to the control of pollution or the management of air quality.
- c) Serve an abatement notice in respect of statutory nuisance.
- d) Investigate any complaint as to the existence of statutory nuisance.
- e) Obtain information under Section 330 of the Town and Country Planning Act 1990.
- f) Obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- g) Make agreements for the execution of highways works.
- h) Make decisions to advertise any proposals for a Traffic Regulation Order (including traffic calming measures) and proceeding to make the same if no objections are forthcoming.
- i) Commence prosecutions under the provisions of the Food Safety Act 1990 (as amended) and the European Communities Act 1972, including regulations made pursuant to those acts or any re-enactment thereof.
- j) Discharge any functions under any of the 'Relevant Statutory Provisions' within the meaning of Part 1 (Health, Safety and Welfare in connections with Work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974 to the extent that those functions are not discharged otherwise than in the Council's capacity as an employer.

## **12.13 SPECIFIC DELEGATIONS TO THE DIRECTOR OF RESOURCES**

### **Statutory Officer Responsibilities**

12.13.1 The Director of Resources is delegated the statutory responsibilities of Chief Finance Officer.

- 12.13.2 Save as provided for in 12.13.28 below, the Chief Finance Officer has statutory responsibility for the financial administration and stewardship of the Council. The statutory duties, which may neither be abrogated nor further delegated, arise from:
- a) Section 151 of the Local Government Act 1972.
  - b) The Local Government Finance Act 1988 and 1992.
  - c) The Local Government and Housing Act 1989.
  - d) The Local Government Acts 2000 and 2003.
  - e) The Accounts and Audit Regulations 2003.
  - f) The Local Government Pension Scheme Regulations 1974 and 1997.
  - g) The Local Authorities Goods and Services Act 1970.
- 12.13.3 The Chief Finance Officer shall ensure the lawfulness of expenditure and financial prudence of decision making in consultation with the Chief Executive and Monitoring Officer and report to the Council, Cabinet or external auditor as appropriate including any report under Section 114 of the Local Government and Finance Act 1988.
- 12.13.4 The Chief Finance Officer shall contribute to the corporate management and leadership of the Council, in particular providing professional financial advice as set out in the statutory guidance issued by the Secretary of State under the Local Government Act 2000.
- 12.13.5 The Chief Finance Officer shall advise all Members and officers about statutory powers, financial maladministration, financial impropriety and probity, budget, reserves and policy framework issues as set out in the statutory guidance issued by the Secretary of State under the Local Government Act 2000.
- 12.13.6 The Chief Finance Officer shall provide financial information to the media, members of the public and the community as set out in the statutory guidance issued by the Secretary of State under the Local Government Act 2000.
- 12.13.7 The Chief Finance Officer shall have the right of access to all documents held by or on behalf of the Council needed to fulfil his/her statutory responsibilities. This does not extend to any documents or information held by or on behalf of any political group.
- 12.13.8 The Chief Finance Officer shall have the right of assistance of any officer in undertaking his/her role.
- 12.13.9 The Chief Finance Officer shall have the right of access to all Members both individually and collectively and to the Council, Cabinet and any Committee or Sub-Committee. This does not extend to any meetings held by or on behalf of any political group.
- 12.13.10 The Chief Finance Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.13.11 The Chief Finance Officer shall be a member of the Corporate Management Board in order to ensure that financial and funding implications are factored into decisions from the outset.
- 12.13.12 The Chief Finance Officer shall have line management responsibility for the internal audit function and the authority to direct the work programme of internal audit in support

of his/her statutory duties. The Council will make available the appropriate quantity and quality of staff to undertake the necessary audit review work.

12.13.13 The Chief Finance Officer shall have access to external audit and the inspectorates to ensure that they have a good understanding and complete, up to date information about the Council's financial management arrangements.

12.13.14 In line with guidance issued by the Chartered Institute of Public Finance & Accountancy, the Chief Finance Officer's functions and responsibilities will be discharged in the following ways in order to fulfil the statutory and public interest responsibilities of the role:

a) **Maintaining strong financial management underpinned by effective financial controls:**

- Advising on corporate risk profiling, and management, including safeguarding assets, risk avoidance and insurance.
- Advising on effective systems of internal control.
- Ensuring there are effective systems of internal financial control.
- Ensuring financial management arrangements are sound and effective.
- Ensuring a prudential financial framework is in place.
- Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well-documented internal financial controls.
- Securing effective arrangements for prudential borrowing, treasury management, and trust and charitable funds.
- Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny.
- Advising on anti-fraud and anti-corruption strategies and measures.
- Securing effective systems of financial administration.
- Ensuring that statutory and other accounts and associated claims and returns in respect of grant are prepared.

b) **Contributing to the effective corporate management and leadership of the Council** including:

- Ensuring the Council's financial resources are well managed.
- Contributing to cross-authority issues and to the development of the Council.

c) **Supporting and advising democratically elected representatives:**

- Advising on protocols setting out the respective roles and responsibilities for financial management of Members and officers.

- Providing advice to Members on developing an overall financial strategy that serves policy and service objectives.
- Advising on the level and utilisation of reserves.
- Helping Members to identify priorities, prepare the annual budget and identify how resources will be used.
- Helping Members to monitor financial performance against the annual budget and resourcing plan.
- Ensuring that all 'branches' of the Council (including the Council, Cabinet, Strategic Monitoring Committee, Scrutiny Committees, political groups and individual Members) receive advice and information.

d) **Supporting and advising officers in their operational roles:**

- Ensuring there is an effective approach to financial management.
- Ensuring that financial strategies serve policy and service objectives.
- Ensuring that the Council's resources are well managed.
- Ensuring that budgets are properly managed.
- Ensuring that financial advice and information is provided.
- Advising on performance management and measurement.

e) **Leading and managing an effective and responsive finance function:**

- Securing high standards of performance and service to the public.
- Demonstrating accountability to members of the public and the community by providing robust financial and performance information.
- Establishing a good, professional working relationship with external auditors, inspectors and other statutory agencies.
- Ensuring that services provided by the finance function are in line with the expectations and needs of internal stakeholders.
- Ensuring there are high standards of performance throughout the finance function.
- Leading and managing the finance function.
- Acting as the head of profession for all finance staff in the Council.

12.13.15 The Chief Finance Officer's statutory responsibilities will be discharged when:

- Officers formulating new policy proposals routinely inform and consult them.
- Significant breaches of Contract Procedure Rules, Financial Procedure Rules and Scheme of Delegation arrangements for consulting the Chief Finance Officer are

reported in accordance with the principles of open government so as to avoid the external auditor making a report in the public interest.

- c) Potential breaches of the Contract Procedure Rules, Financial Procedure Rules and Scheme of Delegation arrangements for consulting the Chief Finance Officer are resolved amicably whilst ensuring that any illegality, failure of process or breach of the Council's Constitution is avoided or rectified.

12.13.16 The Council shall provide the Chief Finance Officer with such officers, accommodation and other resources as are necessary to allow him/her to perform his/her duties including those under Section 114 of the Local Government and Finance Act 1998.

**Director Responsibilities**

12.13.17 To carry out any functions assigned in pursuance of the Council's Constitution, Standing Orders, Contract Procedure Rules, Financial Procedure Rules, Budget & Policy Framework Rules, protocols and any approved policies, plans, codes, practices and procedures of the Council.

12.13.18 To report on the sustainability of the Council's medium term financial strategy and resource plans.

12.13.19 To approve virement or use of general or specific reserves, subject to the Council's policies for maintaining and using such reserves, in cases of urgency for expenditure not otherwise covered by the Director of Resources' delegated authority.

12.13.20 To approve use of general or specific reserves, subject to the Council's policies for maintaining and using such reserves, for items that are unavoidable and are not inconsistent with the approved financial strategy that:

- a) Result from pay awards or price increases not taken into account in approved revenue budgets.
- b) Result from expenditure arising from the mandatory implementation of Acts of Parliament or other Government directives.
- c) Relate to goods, services or other expenses which were budgeted for and properly ordered or committed in the previous year but which, due to delays in the delivery or execution, have to be accounted for in the following year.
- d) Are urgently necessary to maintain existing services and cannot reasonably be met from appropriate approved revenue budgets.
- e) Authorise virements in accordance with the Council's Financial Procedure Rules providing there are not greater consequential revenue effects in later years.
- f) Approve additional use of capital reserves and resources, subject to the Council's policies for maintaining and using such reserves and resources, and subject to the limitations set out in the Financial Procedure Rules.

12.13.21 To undertake the Council's functions relating to pensions as set out in Schedule 1(H) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time.

12.13.22 To authorise and approve, with the Head of Legal & Democratic Services' consent, the disposal of land and the granting or variation in granting of leases, licences and/or dedications of or over any land.

12.13.23 To authorise and approve the granting of smallholding tenancies.

12.13.24 To have overall responsibility for the activities of the following:

- Asset Management & Property Services;
- Audit Services;
- Benefit & Exchequer Services; and
- Financial Services.

**Asset Management & Property Services Responsibilities**

12.13.25 Responsibilities delegated to the Head of Asset Management & Property Services are as follows:

- a) Maintaining an effective Asset Management & Property Service in accordance with all relevant legislation, regulations, codes of best practice, external inspection regimes and Council policy.
- b) As Corporate Property Officer, managing the Council's land and property portfolio, including the maintenance of a property data base for all properties. Any use of a property by a Directorate or establishment other than for directorate service delivery should be supported by documentation identifying terms, responsibilities and duration of the use.
- c) Concluding terms for the purchase and sale of land and property that the Council has previously approved.
- d) Developing and maintaining the Council's Asset Management Plan, including the valuation of assets for accounting purposes to meet the requirements of relevant codes of accounting practice.

**Audit Services**

12.13.26 Operational responsibility for internal Audit Services is delegated to the Audit Services Manager as follows:

- a) Maintaining an effective internal audit service in accordance with the Accounts and Audit Regulations 2003, all other relevant legislation, codes of best practice, external inspection regimes and Council policy.
- b) Carrying out a risk based audit review of all Council services and function on a continuous basis.
- c) Reviewing at least annually the Council's Financial Procedure Rules making recommendations for change to Council.
- d) Updating annually the monetary sums included in the Financial Procedure Rules in line with appropriate price indices.
- e) Carrying out or supervising investigations into any suspected or alleged financial irregularity, consulting and/or involving the Chief Finance Officer and Monitoring Officer as appropriate.
- f) Making appropriately authorised imprest account advances and determining the arrangements for operating such accounts.

- g) Prescribing the form of inventories.
- h) Providing an assurance report to each meeting of the Audit & Corporate Governance Committee on the improvements to key internal control arrangements.
- i) Reporting annually to the Audit & Corporate Governance Committee on:
  - I. The proposed audit activity for the coming year and actual audit activity and findings in the previous year.
  - II. The effectiveness of the Council's internal control arrangements.

### **Benefit & Exchequer Services**

12.13.27 Operational responsibility for the Benefit & Exchequer Services division is delegated to the Head of Benefit & Exchequer Services as follows:

- a) Maintaining an effective Benefit & Exchequer Service in accordance with all relevant legislation, regulations, codes of best practice, external inspection regimes and Council policy.
- b) Issuing summonses and signing and issuing orders, notices and other such documents.
- c) Setting the cost of a summons annually.
- d) Employing firms of certified bailiffs to execute liability orders under the terms of the Local Government Finance Acts 1988 and 1992 and associated regulations.
- e) Authorising sanctions against those found committing housing and Council Tax fraud (caution, administrative penalty or prosecution).
- f) Determining applications for discretionary rate relief under Sections 47 and 49 of the Local Government Finance Act 1988, the Local Government and Rating Act 1997 and associated regulations in accordance with the guidelines agreed with the Director of Resources.
- g) Determining applications for local council tax discounts under Section 13A of the Local Government Act 1992 in accordance with the guidelines agreed with the Director of Resources.
- h) Determining Discretionary Housing Payments for benefit claimants under the Child Support, Pensions and Social Security Act 2000.
- i) Maintaining, developing and publicising the Council's anti money laundering policies as the Council's designated Anti Money Laundering Officer.
- j) Writing off any account that is deemed suitable for write off up to the limits specified in the Financial Procedure Rules, referring all other cases to the Director of Resources to action in accordance with the Financial Procedure Rules.
- k) Supervising any system that involves the receipt of money and determining the form of income records.
- l) Making payments promptly once they have been authorised in accordance with Financial Procedure Rules by certifying officers.
- m) Managing and maintaining the corporate sundry debtors system.

- n) Paying salaries, wages, compensation and other emoluments.
- o) Declaring the rate of interest payable on loans for housing and other purposes.

### **Financial Services**

12.13.28 The Head of Financial Services is the Council's deputy Chief Finance Officer and will assume the statutory responsibilities defined in Section 151 of the Local Government Act 1972 in the absence of the Chief Finance Officer due to a vacancy, holiday, illness or other reason.

12.13.29 The responsibilities sub-delegated to the Head of Financial Services are as follows:

### **Treasury Management**

- a) Recommending for adoption treasury management policies, strategies and practices that accord with the Chartered Institute of Public Finance & Accountancy's latest code of practice.
- b) Executing and administering treasury management decisions in accordance with the Council's approved treasury management policies, strategies and practices.
- c) Reporting annually on treasury management strategy in advance of the year and annual activity following the end of each year.
- d) Making any urgent changes necessary to the list of organisations on the approved investors list or criteria for investment purposes in consultation with the Director of Resources.
- e) Engaging specialist treasury management advisers and cash fund manager to support execution of the Council's approved treasury management policies, strategies and practices.
- f) Monitoring proposed changes in the local government finance system and reporting on the implications to Council.

### **Financial Management**

- g) Maintaining an effective financial management service in accordance with all relevant legislation, regulations, codes of best practice, external inspection regimes and Council policy.
- h) Administering the Council's Financial Procedure Rules.
- i) Reviewing the Council's banking arrangements to ensure they meet operational needs and represent value for money.
- j) Operating the Council's bank accounts in accordance with the banking agreement approved by the Council and its bankers.
- k) Managing the cashflow implications of BACS and CHAPS transactions and determining directions for their authorisation.
- l) Maintaining and developing the medium term financial strategy, the annual budget preparation strategy and financial monitoring procedures, including reporting on progress with Council approved financial targets.
- m) Arranging lease finance facilities.



- n) Providing advice on any liability falling on the Council that is not otherwise covered by the Financial Procedure Rules.
- o) Closing the annual accounts in line with all relevant codes and standards, taking appropriate action as part of the process to optimise the Council's financial position.
- p) Developing and maintaining the Council's capital strategy.
- q) Administering the employee loan schemes.

#### **Procurement & Efficiency Review**

- r) Maintaining and developing the Council's procurement policy for goods and services.
- s) Administering, in consultation with the Head of Legal & Democratic Services, the Council's Contract Procedure Rules, including maintenance of contract registers.
- t) Maintaining and developing the Council's benefit realisation processes.
- u) Carrying out financial checks on prospective Council contractors.
- v) Reviewing annually the Council's Contract Procedure Rules making recommendations for change to Cabinet.

#### **Risk Management & Insurance**

- w) Co-ordinating and sustaining the Council's risk management strategy and monitoring compliance and effectiveness.
- x) Arranging economic, efficient and effective insurance cover for all insurable risks, including self-insurance if appropriate.

### **12.14 SPECIFIC DELEGATIONS TO THE HEAD OF LEGAL & DEMOCRATIC SERVICES**

#### **Statutory Officer Responsibilities**

- 12.14.1 The Head of Legal & Democratic Services is delegated statutory responsibility for the Monitoring Officer role.
- 12.14.2 The Monitoring Officer shall report to the Council and Cabinet in any case where he/she is of the opinion that a proposed action or decision could give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5(a) of the Local Government and Housing Act 1989 – more usually referred to as 'reportable incidents'.
- 12.14.3 The Monitoring Officer shall investigate any matters relating to possible reportable incidents or matters referred to them by an Ethical Standards Officer.
- 12.14.4 The Monitoring Officer shall be the principal adviser to the Standards Committee, except where the Monitoring Officer is involved in an investigation on a reportable incident that the Standards Committee is considering or where a conflict of interest arises.
- 12.14.5 The Monitoring Officer shall maintain the register of Members' Interests.
- 12.14.6 The Monitoring Officer will ensure the preparation, publication and retention of records of decisions taken by or on behalf of Council, Cabinet, Committees and Sub-Committees.

- 12.14.7 The Monitoring Officer shall deal with Ombudsman complaints.
- 12.14.8 The Monitoring Officer shall deal with the Standards Board for England in respect of any complaint of a breach of the Council's Code of Conduct.
- 12.14.9 The Monitoring Officer shall be responsible for all Monitoring Officer functions in respect of Town and Parish Councils within the Council's area.
- 12.14.10 The Monitoring Officer shall make arrangements in conjunction with the Standards Committee for the provision of advice and training to Members of the Council and Members of Town and Parish Councils on the ethical framework.
- 12.14.11 The Council shall provide the Monitoring Officer with such officers, accommodation and other resources as may be necessary to allow him/her to perform his/her duties.
- 12.14.12 The Monitoring Officer shall have the right of access to all documents held on behalf of the Council. This does not extend to any documents held by or on behalf of any political group.
- 12.14.13 The Monitoring Officer shall have the right of access to any meetings of officers (including Corporate Management Board) or Members of the Council. This does not extend to any meetings held by or on behalf of any political group.
- 12.14.14 The Monitoring Officer shall have the right of assistance of any officer in undertaking the role of the Monitoring Officer.
- 12.14.15 The Monitoring Officer shall have the authority to agree a local resolution of any complaint of maladministration or breach of the Council's Code in consultation with the Chief Executive, including the power to agree a compensation payment up to £1,000 in any one case.
- 12.14.16 The Monitoring Officer shall have the authority to disclose information and documents to the Standards Board or an Ethical Standards Officer, even where such disclosure would otherwise be in breach of the Monitoring Officer's duty of confidentiality to the Council.
- 12.14.17 The Monitoring Officer shall have the authority, after consultation with the Head of Paid Service and the Chief Finance Officer, to notify the police and other regulatory agencies of concern in respect of any matter.
- 12.14.18 The Monitoring Officer shall have the right to obtain at the Council's expense external legal advice.
- 12.14.19 The Monitoring Officer shall have the right to add written advice to the report of any other officer of the Council.
- 12.14.20 The Monitoring Officer's statutory responsibilities will be discharged when:
- a) Officers formulating new policy proposals routinely inform and consult them.
  - b) The Monitoring Officer considers a report in the public interest should any officers fail to follow advice they have given.
  - c) Potential reportable incidents are resolved amicably whilst ensuring that any illegality, failure of process or breach of the Council's Code of Conduct is avoided or rectified.

- d) The Monitoring Officer being able to rely on existing processes within the Council, such as internal appeals procedures or insurance arrangements, to resolve any potential reportable incidents.

### **Other Responsibilities**

- 12.14.21 The Head of Legal & Democratic Services is authorised to serve statutory notices to ascertain the legal interests of any person in land.
- 12.14.22 The Head of Legal & Democratic Services is authorised to institute, defend or settle legal proceedings (either in the name of the Council or an individual officer of the Council) at Common Law or under any enactment, statutory instrument, order or bylaw conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal against any such decision. This authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices and Notices to Quit.
- 12.14.23 The Head of Legal & Democratic Services is authorised to delegate authority to officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972.
- 12.14.24 The Head of Legal & Democratic Services shall, without prejudice to the generality of the powers of the Director of Environment, the Head of Environmental Health and Trading Standards and the Head of Strategic Housing, have power to institute proceedings either in the name of the Council or the name of an officer of the Council under those statutory provisions that relate to their specific service areas. The Head of Legal & Democratic Services shall maintain a list of the enabling statutory provisions.
- 12.14.25 The Head of Legal & Democratic Services is authorised to issue and sign documents in relation to the Right to Buy provisions of the Housing Act 1985.
- 12.14.26 The Head of Legal & Democratic Services is authorised to make arrangements pursuant to:
- a) Subsection (1) of Section 67 of, and Schedule 18 to, the Appeals Against Exclusion of Pupils Act 1998.
  - b) Section 94 (1) and (4) of, and Schedule 24 to, the Admissions Appeals Act 1994.
  - c) Section 95 (2) of, and Schedule 25 to, the Children to Whom Section 87 Applies: Appeals by Governing Bodies Act 1998.
- 12.14.27 The Head of Legal & Democratic Services, after consultation with the relevant Cabinet Member, and Group Leaders as appropriate, has the authority to make and give effect to appointments to outside bodies. Where appropriate, and excluding quasi-judicial matters, those bodies will work with the relevant Cabinet Member and Director and report through the Cabinet to Council.
- 12.14.28 The Head of Legal & Democratic Services will maintain a Scheme of Delegation to Officers for planning matters and is authorised to review that Scheme at least annually and make recommendations for change. The Scheme currently approved is attached as Appendix 18 to the Constitution.
- 12.14.29 The Head of Legal & Democratic Services shall keep the Common Seal of the Council under lock and key and shall be responsible for the key.
- 12.14.30 The Head of Legal & Democratic Services is responsible for ensuring that the Common Seal of the Council is affixed to appropriately authorised documents only.

- 12.14.31 The Head of Legal & Democratic Services is authorised to attest the application of the Common Seal of the Council to a document in a book provided for the purpose with sequentially numbered entries. The Chief Executive is also authorised to attest entries in this book.
- 12.14.32 The Head of Legal & Democratic Services is authorised to authenticate documents needed for legal proceedings or legal agreements, contract notices or orders under hand on behalf of the Council providing no other person is authorised to do so.

## **12.15 ARRANGEMENTS FOR REVIEWING THE SCHEME OF DELEGATION**

- 12.15.1 The Chief Executive will be responsible for arranging at least an annual review of the Scheme of Delegation, the results of which will be reported to each November meeting of Council. The Director of Resources and the Head of Legal & Democratic Services shall agree the proposed changes and the Audit & Corporate Governance Committee shall be invited to review them, reporting to Council as appropriate.
- 12.15.2 The Audit & Corporate Governance Committee is charged with reviewing the effectiveness of and level of compliance with the Scheme on an ongoing basis. It has the remit to make appropriate recommendations to Council for improvements to the Scheme as a method of internal control.
- 12.15.3 The Scheme will be treated as a fundamental system as defined by the Chief Internal Auditor. The Chief Internal Auditor will provide regular assurance reports to the Audit & Corporate Governance Committee on the operation of the Scheme as agreed by Cabinet and confirmed by Council. All elements subject to audit review are expected to achieve an audit opinion of **satisfactory** as a minimum on the scale of unsound, unsatisfactory, marginal, satisfactory and good.