



03 November 2023

Authorisation of Legal and Democratic Services Officers

Report of Legal and Democratic Services

Helen Bradley, Head of Legal and Democratic Services

Electoral division(s) affected:

1 None.

Purpose of the Report

2 To authorise Legal and Democratic Services Officers to exercise powers delegated to the Head of Legal and Democratic Services.

Executive summary

3 To ensure the efficient day-to-day running of business within Legal and Democratic Services it is necessary for the Officers within Legal and Democratic Services to exercise certain powers delegated to the Head of Legal and Democratic Services.

Recommendation

4 To authorise Legal and Democratic Services Officers to exercise the powers delegated to the Head of Legal and Democratic Services in the Constitution at Part 3C, Table 8 as set out in Appendix 2.

Background

- 5 The Council's Constitution at Part 3C, Table 1, Paragraph 8 enables Chief Officers and Heads of Service to authorise officers within their service area to exercise powers delegated to them.
- 6 To ensure the efficient day-to-day running of business within Legal and Democratic Services it is necessary for the Head of Legal and Democratic Services to authorise officers within the service area to exercise some of those powers delegated to her.
- 7 The Head of Legal and Democratic Services has reviewed the delegations contained in Part 3C, Table 8 of the Constitution to ensure that they remain up-to-date and reflect the needs of the Service.

Decision

- 12 To authorise Legal and Democratic Services Officers to exercise the powers delegated to the Head of Legal and Democratic Services in the Constitution at Part 3C, Table 8 as set out in Appendix 2.

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Appendix 1: Implications

Legal Implications

The proposed delegations will enable the Council to effectively discharge its Legal and Democratic Services functions.

Finance

None.

Consultation

None.

Equality and Diversity / Public Sector Equality Duty

None.

Human Rights

None.

Crime and Disorder

None.

Climate Change

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

None.

Appendix 2: Delegation of powers from the Head of Legal and Democratic Services to Legal and Democratic Services Officers

Consideration must be given to signing in the name of the Head of Legal and Democratic Services or personally. When signing in the name of the Head of Legal and Democratic Services, the authorised officer should add their own initials against the signature.

Constitution Part 3, Table 7	Legal or Democratic Services Officer
60. To act as Proper Officer for the purposes of the Local Government Acts 1972 and 2000 and all Regulations made there under other than those Proper Officer functions delegated to the Corporate Director of Resources in connection with the administration of the Council's financial affairs. This delegation shall not derogate from the general delegation under Table 1 paragraph 8.	Head of Legal and Democratic Services
61. To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act 1985.	Legal Manager (Commercial, Governance and Litigation)
62. To act as Proper Officer for the Registration of Births, Deaths and Marriages Service pursuant to Schedule 29 paragraph 41 of the Local Government Act 1972 including administration of the arrangements for the licensing of premises under the Marriage Act and the appointment of staff.	Head of Legal and Democratic Services
63. To approve premises for the solemnization of marriages and the registration of civil partnerships	Head of Legal and Democratic Services

<p>64. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.</p>	<p>Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services</p>
<p>64(a) To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's ownership or for the acquisition of land and property by the Council.</p>	<p>Legal Manager (Commercial, Governance and Litigation)</p> <p>Senior Lawyer – Property and Housing</p> <p>Lawyers - Property and Housing, Contracts and Procurement</p> <p>Conveyancers</p> <p>Legal Officers - Property and Housing, Contracts and Procurement</p> <p>Legal Assistants – Property and Housing, Contracts and Procurement</p> <p><u>Apprentice Solicitor – Property and Housing, Contracts and Procurement</u></p>
<p>64(b) To prepare, negotiate and agree all legal documentation other than those contained in sub-paragraph (a) relating to or affecting the functions of the Council.</p>	<p>Legal Managers - All</p> <p>Senior Lawyers –All</p> <p>Lawyers – All</p> <p>Legal Officers - All</p> <p>Legal Assistants – All</p> <p><u>Apprentice Solicitor - All</u></p>
<p>64(c) To sign or attest the Council's seal in all legal documents referred to in sub-paragraphs (a) and (b) and all other legal documentation intended to give effect to decisions of the Council.</p>	<p>Legal Managers - All</p> <p>Senior Lawyers –All</p> <p>Lawyers - All</p>
<p>64(d) To sign or attest the Council's seal to all documents referred to in sub-paragraph (a).</p>	<p>Legal Manager – All</p> <p>Senior Lawyers -All</p> <p>Lawyers - All</p>
<p>65. To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.</p>	<p>Legal Manager – All</p> <p>Senior Lawyer - Property and Housing</p> <p>Lawyers - Property and Housing, Contracts and Procurement</p>

<p>66. To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.</p>	<p>Legal Managers - All Senior Lawyers -All Lawyers - All Legal Officers - All Legal Assistants – All <u>Apprentice Solicitor - All</u></p>
<p>67. Generally, to institute, defend and conduct any legal proceedings relating to the Council’s functions or affecting the property, rights or interests of the Council.</p>	<p>Legal Managers - All Senior Lawyers –All Lawyers - All Legal Officers - All Legal Assistants – All <u>Apprentice Solicitor - All</u></p>
<p>68. To commission external legal advice as required.</p>	<p>Legal Managers – All Senior Lawyers –All Lawyers – All</p>
<p>69. To authorise named officers to appear on behalf of the Council in legal proceedings in the Magistrates’ Court pursuant to Section 223 Local Government Act 1972.</p>	<p>Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services</p>
<p>70. To settle any action in any court or tribunal in which the Council is a party or where legal proceedings are indicated providing that any settlement exceeding £50,000 will be subject to prior consultation first with the Corporate Director of Resources as s151 Officer and then with the Leader or Deputy Leader of the Council except in cases of urgency whether settlement is made on the advice of Counsel.</p>	<p>Head of Legal and Democratic Services (exceeding £50,000). Legal Managers – All (to £50,000). Senior Lawyers –All (to £30,000) Lawyers – All (to £30,000). Legal Officers – Commercial and Corporate Governance, Regulatory and Enforcement (to £30,000). Legal Assistants – Commercial and Corporate Governance, Regulatory and Enforcement (to £30,000). <u>Apprentice Solicitor – Commercial and Corporate Governance, Regulatory and Enforcement (to £30,000).</u></p>

<p>71. To settle claims from staff for damage to personal property in accordance with the Council's policies.</p>	<p>Legal Manager – Legal Manager (Commercial, Governance and Litigation)</p> <p>Senior Lawyers – Commercial and Corporate Governance, Regulatory and Enforcement</p> <p>Lawyers – Commercial and Corporate Governance, Regulatory and Enforcement</p> <p>Legal Officers – Commercial and Corporate Governance, Regulatory and Enforcement</p> <p>Legal Assistants – Commercial and Corporate Governance, Regulatory and Enforcement</p> <p><u>Apprentice Solicitor – Commercial and Corporate Governance, Regulatory and Enforcement</u></p>
<p>72. In consultation with the Chair of the Corporate Overview and Scrutiny Management Board, to make payments or provide other benefits in cases of maladministration in accordance with Section 92 of the Local Government Act 2000 (as amended).</p>	<p>Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services</p>
<p>73. To:</p> <p>(a) appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and</p> <p>(b) undertake the role of company secretary in any company for which the Council provides secretarial or administrative services.</p>	<p>(a) Head of Legal and Democratic Services</p> <p>(b) Legal Managers – All A Lawyer nominated by a Legal Manager</p>
<p>74. In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the subject of report to the Council or the Executive, in consultation with the respective political group leaders.</p>	<p>Democratic Services Manager</p>

75. To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.	Head of Legal and Democratic Services
76. To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Legal Manager (Children, Adults and Health)
77. To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).	Democratic Services Manager
78. To make arrangements pursuant to Section 95(2) of the Schools Standards and Framework Act 1998 (Children to whom Section 87 applies; Appeals by Governing Bodies).	Democratic Services Manager
79. In consultation with the Corporate Director for Neighbourhoods and Climate Change and the Chair and Vice-Chair of the Statutory Licensing Committee or General Licensing and Registration Committee as appropriate, to determine that a particular application shall be considered by the Statutory Licensing Committee or the General Licensing and Registration Committee rather than a Sub-Committee.	Legal Manager (Commercial, Governance and Litigation)
80. To consider and respond to representations made by members of the public in relation to a decision to hold a meeting or part of that meeting in private.	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services
81. To discharge the Council's functions in relation to voluntary registrations of village greens as set out in section 15(8) Commons Act 2006.	Legal Manager (Commercial, Governance and Litigation)

<p>82. To discharge the Council's functions set out in Part 1 of the Commons Act 2006 and the Commons Registration Act 1965 with the exception of determinations under section 15(1) of the Commons Act 2006.</p>	<p>Legal Manager (Commercial, Governance and Litigation)</p>
<p>83. To appoint an inspector to hold an inquiry into applications to register land as town or village green where appropriate.</p>	<p>Legal Manager (Commercial, Governance and Litigation)</p>
<p>84. To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009</p>	<p>Head of Legal and Democratic Services</p>
<p>85. To deal with the payment of Coroner's expenses.</p>	<p>Legal Manager (Commercial, Governance and Litigation)</p>
<p>86. To discharge the Council's functions in relation to Local Land Charges.</p>	<p>Legal Manager (Commercial, Governance and Litigation)</p>
<p>87. To oversee the management of the Council's Overview and Scrutiny functions.</p>	<p>Democratic Services Manager Principal Overview and Scrutiny Officer</p>
<p>88. To coordinate the Member Training and Development Programme including:</p> <ul style="list-style-type: none"> i. management of the approved Member Training and Development Budget; and ii. authorisation of Member attendance at conferences, seminars and other training and development events in consultation with the Leader. 	<p>Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services Democratic Services Manager</p>
<p>89. In consultation with the Chair of the Standards Committee, to approve any temporary appointment of an independent person to discharge the functions set out in section 28(7) of the Localism Act 2011 where the position is vacant or an existing appointee is unable to act.</p>	<p>Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services</p>
<p>90. To approve officer severance payments of less than £20,000.</p>	<p>Legal Manager (Commercial, Governance and Litigation) as</p>

	Deputy Monitoring Officer in the absence of the Head of Legal and Democratic Services
91. To authorise expenditure within the approved budget for civic hospitality.	Democratic Services Manager