Delegated Decision



28 November 2024

Authorisation of Legal and Democratic Services Officers

Report of Legal and Democratic Services

Helen Bradley, Director of Legal and Democratic Services

Electoral division(s) affected:

1 None.

Purpose of the Report

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

Executive summary

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 Director of Legal and Democratic Services.

Recommendation

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

Background

- The Council's Constitution at Part 3C, Table 1 as set out in Appendix 4 enables Chief Officers and Heads of Service to authorise officers within their service area to exercise powers delegated to them.
- To ensure the efficient day-to-day running of business within Legal and Democratic Services it is necessary for the Director of Legal and Democratic Services to authorise officers within the service area to exercise some of those powers delegated to her.
- 7 The Director of Legal and Democratic Services has reviewed the delegations contained in Part 3C, Table 2 of the Constitution as set out in Appendix 4 to ensure that they remain up-to-date and reflect the needs of the Service.

Decision

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

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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 Director of Legal and Democratic Services to Legal and Democratic Services Officers

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

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.	
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Constitution Part 3C, Table 2	Legal or Democratic Services Officer
15. 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)
16. 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.	Director of Legal and Democratic Services
17. To approve premises for the solemnization of marriages and the registration of civil partnerships	Director of Legal and Democratic Services
18. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Director of Legal and Democratic Services

19. 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.	Legal Manager (Commercial, Governance and Litigation
	Senior Lawyer – Property and Housing
	Lawyers - Property and Housing, Contracts and Procurement
	Conveyancers
	Legal Officers - Property and Housing, Contracts and Procurement
	Legal Assistants – Property and Housing, Contracts and Procurement Apprentice Solicitor – Property and Housing, Contracts and Procurement
20. To prepare, negotiate and agree all legal documentation other than	Legal Managers - All
those contained in paragraph 19	Senior Lawyers –All
relating to or affecting the	Lawyers – All
functions of the Council.	Legal Officers - All
	Legal Assistants – All Apprentice Solicitor - All
21. To sign or attest the Council's	Legal Managers - All
seal in all legal documents referred to in paragraphs 19 and	Senior Lawyers –All
20 and all other legal	Lawyers - All
documentation intended to give effect to decisions of the Council.	
22. To sign or attest the Council's seal	Legal Manager – All
to all documents referred to in paragraph 19.	Senior Lawyers -All
paragraph to.	Lawyers - All
23. To prepare, negotiate and agree	Legal Manager – All
all legal documentation in relation to all land and property held by	Senior Lawyer - Property and
the Council as a trustee.	Housing
	Lawyers - Property and Housing, Contracts and Procurement
24. To sign any notice, demand or	Legal Managers - All
other document on behalf of the Council in connection with any	Senior Lawyers -All
actual or contemplated legal or enforcement proceedings.	Lawyers - All
	Legal Officers - All

	Legal Assistants – All
	Apprentice Solicitor - All
25. Generally, to institute, defend and conduct any legal proceedings	Legal Managers - All
relating to the Council's functions	Senior Lawyers –All
or affecting the property, rights or	Lawyers - All
interests of the Council.	Legal Officers - All
	Legal Assistants – All
	Apprentice Solicitor - All
26. To commission external legal advice as required.	Legal Managers – All
advice as required.	Senior Lawyers –All
	Lawyers – All
27. 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.	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Director of Legal and Democratic Services
28. To settle any action in any court or tribunal in which the Council is a	Director of Legal and Democratic Services (exceeding £50,000).
party or where legal proceedings are indicated providing that any	Legal Managers – All (to £50,000).
settlement exceeding £50,000 will	Senior Lawyers –All (to £30,000)
be subject to prior consultation first with the Corporate Director of	Lawyers – All (to £30,000).
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.	Legal Officers – Commercial and Corporate Governance, Regulatory and Enforcement (to £30,000).
	Legal Assistants – Commercial and Corporate Governance, Regulatory and Enforcement (to £30,000).
	Apprentice Solicitor – Commercial and Corporate Governance, Regulatory and Enforcement (to £30,000).
29. To settle claims from staff for damage to personal property in accordance with the Council's policies.	Legal Manager – Legal Manager (Commercial, Governance and Litigation)
	Senior Lawyers – Commercial and Corporate Governance, Regulatory and Enforcement
	Lawyers – Commercial and Corporate Governance, Regulatory

	and Enforcement
	Legal Officers – Commercial and Corporate Governance, Regulatory and Enforcement
	Legal Assistants – Commercial and Corporate Governance, Regulatory and Enforcement
	Apprentice Solicitor – Commercial and Corporate Governance, Regulatory and Enforcement
30. In relation to the Pension Fund, to exercise the County Council's function as administering authority	Legal Manager – Legal Manager (Commercial, Governance and Litigation)
relating to the Local Government Pension Scheme in the following way:	Senior Lawyer – Commercial and Corporate Governance,
a) To deal with stage 2 appeals under the dispute procedure for the Local Government Pension Scheme.	Lawyers – Commercial and Corporate Governance
31. 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).	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Director of Legal and Democratic Services
32. To:	
i. appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and	Director of Legal and Democratic Services Legal Managers – All A Lawyer nominated by a Legal
ii. undertake the role of company secretary in any company for which the Council provides secretarial or administrative services.	Manager
33.In consultation with the Chief Executive, to make appointments of Members to local and other outside bodies which are not the	Democratic Services Manager

subject of report to the Council or the Executive, in consultation with the respective political group leaders.	
34. To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.	Director of Legal and Democratic Services
35. To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Legal Manager (Children, Adults and Health)
36. To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).	Democratic Services Manager
37. 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).	
38. 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)
39. 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
40. 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)

41. 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.	Legal Manager (Commercial, Governance and Litigation)
42. To appoint an inspector to hold an inquiry into applications to register land as town or village green where appropriate.	Legal Manager (Commercial, Governance and Litigation)
43. To appoint Assistant Coroners in accordance with the provisions of the Coroners and Justice Act 2009	Director of Legal and Democratic Services
44. To deal with the payment of Coroner's expenses.	Legal Manager (Commercial, Governance and Litigation)
45. To discharge the Council's functions in relation to Local Land Charges.	Legal Manager (Commercial, Governance and Litigation)
46. To oversee the management of the Council's Overview and Scrutiny functions.	Democratic Services Manager Principal Overview and Scrutiny Officer

47.	To coordinate the Member Training and Development Programme including: i. management of the approved Member Training and Development Budget; and ii. authorisation of Member attendance at conferences, seminars and other training	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Director of Legal and Democratic Services Democratic Services Manager
	and development events in	
48.	consultation with the Leader. 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.	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Director of Legal and Democratic Services
49.	To approve officer severance payments of less than £20,000.	Legal Manager (Commercial, Governance and Litigation) as Deputy Monitoring Officer in the absence of the Director of Legal and Democratic Services
50.	To authorise expenditure within the approved budget for civic hospitality.	Democratic Services Manager