

DELEGATED DECISION

LEGAL AND DEMOCRATIC SERVICES

September 2018

Authorisation of Legal and Democratic Services Officers and Neighbourhood Protection Manager



Report of Legal and Democratic Services Helen Lynch, Head of Legal and Democratic Services

Purpose of the Report

1. To authorise Legal and Democratic Services Officers to exercise powers delegated to the Head of Legal and Democratic Services.
2. To authorise the Neighbourhood Protection (Engagement) Manager to apply the electronic signature of the Head of Legal and Democratic Services in defined circumstances.

Background

3. The Constitution at Part 3, C, Table 1, paragraph 8 enables Chief Officers and Heads of Service to authorise officers within their service area to exercise powers delegated to them.
4. 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.
5. It is also appropriate to permit the Neighbourhood Protection (Engagement) Manager to continue to apply the Head of Legal and Democratic Services' electronic signature to certain documents that he is authorised to prepare and for no other purpose. Those documents are Allotment Tenancies, Self-Management Agreements and Grazing Agreements for which the Head of Direct Services has responsibility under Part 3, C, Table 6 paragraph 16.
6. The Head of Legal and Democratic Services has reviewed her delegations contained in Part 3, C, Table 7 following the annual review of the constitution to ensure that they remain up-to-date and reflect the needs of the Service.

Recommendations and reasons

7. 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 3, C, Table 7 as set out in Appendix 2 to ensure the efficient day-to-day running of business within Legal and Democratic Services.
8. To authorise the Neighbourhood Protection (Engagement) Manager to apply the electronic signature of the Head of Legal and Democratic Services to:
 - a. Allotment Tenancies;
 - b. Self-Management Agreements; and
 - c. Grazing Agreements.

Decision

9. To authorise Legal and Democratic Services Officers to exercise the powers delegated to the Head of Legal and Democratic Services in the constitution in Part 3, C, Table 7 as set out in Appendix 2.
10. To authorise the Neighbourhood Protection (Engagement) Manager to apply the electronic signature of the Head of Legal and Democratic Services to:
 - a. Allotment Tenancies;
 - b. Self-Management Agreements; and
 - c. Grazing Agreements.

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Appendix 1: Implications

Finance - None

Staffing - None

Risk - None

Equality and Diversity / Public Sector Equality Duty - None

Accommodation - None

Crime and Disorder - None

Human Rights - None

Consultation - None

Procurement – None

Disability Issues - None

Legal Implications – The proposed delegation will enable the Council to effectively discharge its functions.

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 and when signing in name of the Head of Legal and Democratic Services the authorised officer should add his/her own initials against the signature.

Constitution Part 3, C, Table 7	Legal or Democratic Services Officer
47. 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
48. To carry out the Proper Officer functions relating to the freedom of the City under the Durham City Council Act 1985.	Legal Manager - Litigation
49. 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
50. To amend the Constitution where necessary to reflect changes in the law or decisions of council bodies or to correct inaccuracies.	Head of Legal and Democratic Services
51. (a) To prepare, negotiate and agree all legal documentation in relation to all land and property in the Council's	Legal Manager - PPP Solicitors - PPP Conveyancers Legal Assistant - PPP

ownership or for the acquisition of land and property by the Council.	
51. (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.	Legal Managers - All Solicitors – All Legal Assistants - All
51. (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.	Legal Managers - All Solicitors - All
52. (a) To prepare, negotiate and agree all legal documentation in relation to all land and property held by the Council as a trustee.	Legal Manager - PPP Solicitors - PPP
52(b). To sign or attest the Council's seal to all documents referred to in sub-paragraph (a)	Legal Manager - PPP Solicitors - All
53. To sign any notice, demand or other document on behalf of the Council in connection with any actual or contemplated legal or enforcement proceedings.	Legal Managers - All Solicitors - All Legal Assistants - All
54. (a) 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.	Legal Managers - All Solicitors - All Legal Assistants - All
54 (b) To commission external legal advice as required.	Legal Managers – All Solicitors – All
54. (c) 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.	Head of Legal and Democratic Services
55. 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	Head of Legal and Democratic Services (Exceeding £50,000) Legal Managers - All (to £50,000) Solicitors - All (to £30000)

<p>exceeding £50,000 will be subject to prior consultation first with the Corporate Director, Resources as s151 Officer and then with the Leader or Deputy Leader of the Council except in cases of urgency where the settlement is made on the advice of Counsel.</p>	<p>Legal Assistants - Litigation (to £30,000)</p>
<p>56. To settle claims from staff for damage to personal property in accordance with the Council's policies.</p>	<p>Legal Manager - Litigation Solicitors - Litigation Legal Assistants - Litigation</p>
<p>57. In consultation with the Chairman 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>Head of Legal and Democratic Services</p>
<p>58. To: (a) appoint Members as proxies to attend and vote at shareholders meetings of any company of which the Council is a shareholder and (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 (b) Legal Managers - All</p>
<p>59. 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>Committee, Member and Civic Services Manager</p>
<p>60. To appoint Review Boards under Regulations under Section 34(4) (Determination of Claims and Reviews) of the Social Security Act 1998.</p>	<p>Head of Legal and Democratic Services</p>
<p>61. To make arrangements in relation to appeals against the exclusion of pupils from maintained schools.</p>	<p>Legal Manager – CAS</p>

62. To make arrangements pursuant to Sections 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (Admission Appeals).	Committee, Member and Civic Services Manager
63. 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).	Committee, Member and Civic Services Manager
64. In consultation with the Corporate Director, Regeneration and Local Services and the Chairman and Vice-Chairman 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 – Litigation
65. 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.	Head of Legal and Democratic Services
66. 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 – PPP
67. 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 – PPP
68. To appoint an inspector to hold an inquiry into applications to register land as town or village green where appropriate.	Legal Manager – PPP
69. To discharge the Council's functions in relation to Local Land Charges	Legal Manager - PPP