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<b>REPORT TO:</b>	<b>FINANCE &amp; MANAGEMENT COMMITTEE</b>	<b>AGENDA ITEM:</b>
<b>DATE OF MEETING:</b>	<b>22 JUNE 2006</b>	
<b>REPORT FROM:</b>	<b>CHIEF EXECUTIVE</b>	<b>OPEN</b>
<b>MEMBERS' CONTACT POINT:</b>	<b>JOHN WALTON, ACTING HEAD OF LEGAL &amp; DEMOCRATIC SERVICES EXT 5831</b>	<b>DOC:</b>
<b>SUBJECT:</b>	<b>DRAFT SCHEME OF DELEGATION TO OFFICERS</b>	<b>REF: JFW</b>
<b>WARD(S) AFFECTED:</b>	<b>ALL</b>	<b>TERMS OF REFERENCE: FM03</b>

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### **1.0 Recommendation**

1.1 That the Committee recommend the Council to approve and adopt a draft Scheme of Delegation to Officers (Appendix A to this report), to form Part 3(b) of the Council's Constitution.

### **2.0 Purpose of Report**

2.1 The purpose of this report is to:

- (1) outline the background and review process which has led to the submission of the appended draft Scheme of Delegation to Officers; and
- (2) invite the Committee to recommend the Council to approve and adopt the draft Scheme.

### **3.0 Background**

3.1 A Local Code of Corporate Governance was adopted by the Council on 11 August 2005, at which time it was reported that a Self Assessment audit had been carried out by officers to provide evidence of how the Council had fulfilled or intended to fulfil its commitment to corporate governance. One of the requirements of that audit (under the heading "Structures and Processes – Balance of Power and Authority") was to make sure that Members' and employees' roles and responsibilities were clearly defined. One of the action points identified under that requirement was to review the Scheme of Delegation to Officers.

3.2 That review has now been carried out in consultation with the Council's Directors and Heads of Service. The conclusion reached is that the current scheme, approved and

adopted by the Council on 24 July 1997 for inclusion in Part 3 of the Council's Constitution, is out of date in a number of ways. For example:

- (1) the current scheme does not reflect the Council's present management structure;
- (2) it does not include the many specific delegations approved by the Council and its Committees since 1997; and
- (3) it does not reflect all of the ways in which Members are actually involved in the Council's decision-making processes.

Nor is the scheme now particularly user-friendly as a source of reference, as it simply lists the detailed actions or powers delegated to officers rather than categorising them functionally under the Council's various service areas.

3.3 A revised Scheme of Delegation to Officers has therefore been drafted with a view to updating and improving the current scheme. The approach adopted for this re-drafting has been:

- (1) to delegate powers in functional terms rather than by reference to specific statutory provisions;
- (2) to delegate powers only to the Chief Executive, Directors and, in her capacity as Monitoring Officer, the Head of Legal & Democratic Services - rather than directly to Heads of Service or other officers, in order to:
  - (a) avoid Heads of Service having greater powers than their Directors or having to delegate upwards, and
  - (b) allow the Chief Executive and Directors to authorise other officers in their Directorates to exercise specific powers as appropriate, thereby giving greater flexibility in producing and updating more detailed authorisations without the need for further Committee approval. (This would enable, for example, the Director of Community Services to authorise Environmental Health Officers by reference to more detailed lists of statutory provisions for enforcement purposes, or the Chief Executive to make specific appointments in relation to elections.)
- (3) to limit or qualify the exercise of those delegated powers and ensure adequate Member involvement:
  - (a) by emphasising that **all** delegated powers are subject to the Council's Constitution (Articles, Committee Responsibilities, Rules of Procedure, Codes, Protocols etc), policies, budgets and decisions, and
  - (b) by means of a series of specific, service-based Protocols that:
    - impose conditions on the exercise of those powers, where appropriate, and
    - clearly spell out those occasions when Members **must** be involved in the decision-making process or consulted prior to a decision being made.

- (4) **Not** to increase the general level of delegation to officers. The drafted Protocols (paragraph 8 of the draft Scheme) are intended to reflect the current extent of Member involvement in the Council's decision-making processes, including those already explicitly set out in the 1997 Scheme.

#### **4.0 Financial Implications**

- 4.1 None.

#### **5.0 Corporate Implications**

- 5.1 Once adopted, the revised Scheme of Delegation to Officers will provide a clearer, more effective source of reference within the Council's Constitution to identify those powers delegated to officers, and to provide clear guidance on how the exercise of those powers is to be limited or qualified to ensure that Members are appropriately involved in the Council's decision-making processes.

#### **6.0 Community Implications**

- 6.1 None.

#### **7.0 Employment Implications**

- 7.1 The Scheme of Delegation to Officers will need to be reflected in the job descriptions of appropriate officers. Whilst it is considered that such matters are already implied, this would provide an opportunity for a review to be completed.

#### **8.0 Conclusions**

- 8.1 The review of the currently adopted delegation scheme, together with the adoption of the draft Scheme of Delegation to Officers now proposed, will meet the Council's obligation under its Local Code of Corporate Governance towards making sure that Members' and employees' roles and responsibilities are clearly defined.

#### **9.0 Background Papers**

- 9.1 Scheme of Delegation to Officers adopted on 24 July 1997.
- 9.2 Local Code of Corporate Governance adopted on 11 August 2005.

*Draft*

## **Part 3(b)**

# **Responsibility for Functions (Scheme of Delegation to Officers)**

# SCHEME OF DELEGATION TO OFFICERS

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# **SCHEME OF DELEGATION TO OFFICERS**

## **1. GENERAL CONDITIONS APPLYING TO ALL DELEGATED POWERS**

- 1.1 The powers delegated in this Scheme must be exercised in accordance with:
- (1) the Council's Constitution;
  - (2) relevant policies of the Council;
  - (3) approved budgets;
  - (4) decisions of the Council and its Committees.
- 1.2 The Chief Executive or Directors need not exercise their delegated powers and must not if, in their opinion, the matter involves questions of policy not yet determined by the Council.
- 1.3 Unless prohibited by law, the Chief Executive and each Director may delegate any power to another Director or the Chief Executive and authorise other officers by designation to exercise defined powers.
- 1.4 Delegated powers include carrying out all duties and powers covered by the function, including administrative and procedural acts, exercising discretion, making determinations, and imposing, amending, deleting, revoking, enforcing conditions, limitations, restrictions or other terms on any approval, consent, licence, permission or registration.
- 1.5 All powers delegated under this Scheme are subject to the Protocols set out in paragraph 8. These Protocols are designed to limit or qualify the exercise of those powers by the Chief Executive and Directors and to ensure that Members of the Council have adequate opportunity to comment on and be involved in the decision-making process, where appropriate.**

## **2. GENERAL POWERS DELEGATED TO THE CHIEF EXECUTIVE AND DIRECTORS**

- 2.1 To exercise those powers and functions allocated to them under the Council's Constitution.
- 2.2 To undertake the day-to-day management of their Departments and the services for which they are responsible, including the deployment of personnel, premises, finance, vehicles, plant, equipment and other resources under their control.
- 2.3 Subject to the overall control of the Chief Executive and within the Council's approved establishment, policies and procedures, to recruit, manage and, if necessary, to dismiss staff within their control, including:
- (1) authorising pay and conditions;
  - (2) undertaking disciplinary and grievance proceedings;
  - (3) defending and, if necessary (and subject to the approval of the Director of Corporate Services if it involves claiming on the Council's insurance), settling any claims made against the Council;
  - (4) taking overall responsibility for the health and safety at work of employees;
  - (5) implementing all approved employment policies, practices and procedures.

- 2.4 To acquire, grant and dispose of rights in land, premises, vehicles, plant, equipment and other property on such terms and conditions as considered appropriate.
- 2.5 To provide and commission goods and services and to undertake and commission works.
- 2.6 To provide grants and other financial assistance.

### **3. POWERS DELEGATED TO THE CHIEF EXECUTIVE**

3.1 To be Head of Paid Service for the Council.

#### **3.2 Administration**

- (1) To undertake all administrative functions of the Council relating to the operation of the Council's Constitution and meetings of the Council, its Committees and Panels.
- (2) To undertake all functions relating to Parish Councils.
- (3) To undertake all functions relating to civic matters.
- (4) To formulate and co-ordinate advice on strategic and corporate policy, continuous performance assessment, use of resources, and value for money.
- (5) To undertake all functions relating to electoral matters.
- (6) To approve attendance of Members at conferences, seminars etc, in consultation with the Leader or Deputy Leader of the Council.

#### **3.3 Legal, Land and Property**

- (1) To undertake all legal functions, including:
  - authorising, instituting, defending, appearing in or settling any legal proceedings;
  - issuing or serving any notice or order which is not the responsibility of any Director.
- (2) To undertake and co-ordinate all functions relating to Local Land Charges and Enquiries.
- (3) To authorise and witness, with the Chair or Vice-Chair of the Council, the execution of deeds by affixing the Council's Common Seal.

#### **3.4 Probity Issues**

- (1) To be responsible for all probity issues and to co-ordinate the response to complaints against the Council, including settling complaints and paying compensation.

#### **3.5 Debts**

- (1) To write off debts no greater than £250, in consultation with the Director of Corporate Services.
- (2) To write off debts greater than £250 but no greater than £1,000, in consultation with the Chair or Vice-Chair of the relevant Committee.

#### **4. POWERS DELEGATED TO THE DIRECTOR OF CORPORATE SERVICES**

4.1 To have overall control of the Council's finances and to act as financial adviser to the Council, its Committees, the Chief Executive and Directors.

##### **4.2 Financial Services**

(1) To undertake all functions in relation to:

- accountancy matters, including bank accounts;
- investments;
- insurances;
- risk management;
- Housing and Council Tax Benefits;
- Council Tax and Non-Domestic Rates and other revenues;
- Non-Domestic Rate Relief;
- payroll and related matters;
- pensions;
- debtors and creditors;
- Collection Fund;
- investigation of fraud and impropriety.

(2) To control all funds and reserves.

##### **4.3 Information and Communications Technology (ICT)**

(1) To be responsible for providing and supporting the Council's ICT needs, and for ensuring that ICT resources are used appropriately and efficiently in accordance with the Council's corporate framework.

(2) To be responsible for providing the Council with effective, efficient and economic procurement that enables value for money in the delivery of services.

##### **4.4 Customer Services**

(1) To be responsible for providing an integrated Customer Service.

##### **4.5 Human Resources**

(1) To be responsible for providing an effective Human Resources Service, including the formulation, implementation and monitoring of fair and effective employment policies, practices and procedures.

##### **4.6 Internal Audit**

(1) To be responsible for providing an effective Internal Audit Service.

##### **4.7 Corporate Property and Asset Management**

(1) To be responsible for the effective strategic management and co-ordination of corporate property and asset management planning.

##### **4.8 Miscellaneous**

(1) To act as Treasurer to the Etwall Centre Joint Committee.



## **5. POWERS DELEGATED TO THE DEPUTY CHIEF EXECUTIVE AND DIRECTOR OF POLICY & DEVELOPMENT SERVICES**

### **5.1 Deputy Chief Executive**

- (1) To deputise for the Chief Executive as and when required, other than for functions relating to electoral matters.

### **5.2 Planning Services**

- (1) To undertake all functions under the Town & Country Planning Acts and associated statutes, instruments and regulations including:

- functions of the Planning Policy Team;
- planning applications;
- trees, hedges and hedgerows;
- public rights of way enforcement (under agency agreement with County Highway Authority);
- contravention notices;
- requisitions for information;
- enforcement;
- breach of conditions;
- stop notices;
- untidy sites;
- prior notification for demolitions;
- minor amendments to previously-approved proposals;
- planning appeals;
- s106 Town & Country Planning Act legal agreements;
- telecommunications development notifications;
- environmental impact assessment screening and scoping.

- (2) To undertake all functions in relation to Building Control, including:

- plans and notices deposited under the Building Regulations;
- assessment and variation of charges under the Council's Scheme of Charges;
- Building Act 1984, Part II notices;
- applications for Building Regulations dispensation or relaxation;
- dangerous structures;
- party walls;
- requisitions for information;
- enforcement notices;
- local authority national type approval consortium scheme notices;
- local authority building control national partnering scheme;
- street naming and house numbering.

### **5.3 Policy & Economic Regeneration**

- (1) To undertake functions, other than those which are the responsibility of other Chief Officers, relating to the development, management, co-ordination and monitoring of corporate policy objectives including:

- managing delivery of the Best Value programme, including producing the annual Best Value Performance Plan and Plan Summary;
- developing and co-ordinating the performance management framework (the Corporate Plan, Service Plans and Best Value Performance Indicators);
- supporting and co-ordinating arrangements for consultation, including management of the South Derbyshire Citizens' Panel;

- developing the Council's approach to Equality, Diversity and Social Inclusion issues;
  - developing a Community Strategy for South Derbyshire through the Local Strategic Partnership;
  - providing policy-related support to the Overview and Scrutiny Committees.
- (2) To be responsible for all functions relating to the promotion of the economic regeneration of South Derbyshire, working in partnership with local, sub-regional and regional agencies to develop the local economy and workforce, including:
- attracting inward investment, of businesses and employment, to the District;
  - attracting visitors, from the UK and overseas, to South Derbyshire and The National Forest;
  - supporting business development, by providing advice and support to local businesses and tourism enterprises;
  - providing visitor information to visitors and local residents, principally through the operation of a Tourist Information Centre.

## **6. POWERS DELEGATED TO THE DIRECTOR OF COMMUNITY SERVICES**

### **6.1 Housing Services**

- (1) To undertake all functions relating to Housing including:
- facilitating the provision of housing and incidental amenities;
  - housing advice, advances and grants;
  - mobile homes;
  - permanent gypsy/traveller sites;
  - homelessness;
  - meals on wheels services;
  - crime, disorder and anti-social behaviour reduction, in liaison with the Police;
  - harassment and unlawful eviction.

### **6.2 Leisure & Community Development**

- (1) To be responsible for all functions relating to Leisure and Community Development services including:
- indoor and outdoor leisure facilities;
  - public parks and open spaces;
  - community safety;
  - arts, heritage, community, sport, play, health and leisure activities;
  - environmental education;
  - cemeteries, crematoria and mortuaries;
  - welfare funerals;
  - grant aid support to voluntary organisations.

### **6.3 Environmental Services and Health**

- (1) To undertake all functions relating to Environmental Services and Health including:
- public health;
  - re-cycling;
  - food sales, safety and standards;
  - caravan sites;
  - Health and Safety at Work;
  - cleansing of highways and other public areas;

- pollution control;
- exhumations;
- public conveniences;
- bus shelters;
- street name plates and signs for Council functions;
- street furniture and litter bins;
- street and house-to-house collections;
- amusements, lotteries and gaming;
- refuse collection and disposal;
- pest control;
- shops and Sunday trading;
- hackney carriages;
- private hire vehicles;
- licensing;
- animals;
- litter;
- home safety;
- water supply, standards and safety;
- housing conditions, standards and safety;
- housing improvement and renovation;
- public nuisance;
- drainage and sewers;
- dogs.

## **7. POWER DELEGATED TO THE HEAD OF LEGAL & DEMOCRATIC SERVICES**

7.1 To be Monitoring Officer for the Council.

## **8. THE PROTOCOLS**

### **8.1 Financial Services Protocol**

- (1) All budgetary and financial decision-making is subject to the Council's Financial Regulations and Financial Procedures.
- (2) All decisions on Non-Domestic Rate Relief is subject to the Council's Delegated Scheme for the Granting of Discretionary Rate Relief, Discretionary Rural Rate Relief and Hardship Relief.

### **8.2 Human Resources Protocol**

- (1) All proposals to alter the Council's establishment involving increased expenditure will be presented to Finance and Management Committee for determination.

### **8.3 Corporate Property and Asset Management Protocol**

- (1) Any acquisitions or disposals of property will be undertaken only after receiving advice from a fully-qualified valuer.
- (2) There is no delegated power to the Chief Executive or any Director to approve the acquisition or disposal of freehold land and property, or of leases or licences the premium or annual consideration for which exceeds £10,000.

### **8.4 Planning Services Protocol**

- (1) Where a formal objection from a statutory consultee or two or more objections are received in respect of a tree preservation order, trees in conservation areas,

removal of hedgerows, or telecommunications development requiring prior notification to the local authority, delegated powers may be exercised only after consultation with the Chair or Vice-Chair of Development Control Committee.

- (2) Delegated power on applications may be exercised only in the following cases:
- the approval of minor applications in conformity with development plan policies and/or supplementary planning guidance;
  - the refusal of minor applications significantly in conflict with development plan policies and/or supplementary planning guidance;
  - the approval of major applications which are not subject to a significant level of controversy and which conform to development plan policies and/or supplementary planning guidance;
  - the refusal of major applications which are not subject to a significant level of controversy and which conflict with development plan policies and/or supplementary planning guidance;
  - in the case of major applications which are not subject to a significant level of controversy and where there is no specifically relevant development plan policy or supplementary planning guidance, the determination of such applications in accordance with long-term, consistent precedent decisions and specialist advice from consultees;
  - the approval of applications for hazardous substances consent.
- (3) Delegated power on enforcement action may be exercised only in the following cases:
- where there is a clear-cut conflict with development plan policies and/or supplementary planning guidance;
  - where there has been a previous committee decision, which leads logically to a decision to enforce;
  - where an appeal decision provides a precedent for enforcement;
  - where a site is manifestly untidy;
  - the issue of temporary stop notices.
- (4) The following matters are specifically excluded from these delegated powers:
- any application which a Member requests to come before the Development Control Committee;
  - any application which in the Head of Planning Services' view is likely to be subject to a level of significant controversy or to form a precedent for such applications in the future;
  - any major application or an application on a matter where there is no established planning policy or formal supplementary planning guidance, where a relevant parish council expresses a clear view in favour of the proposal which would otherwise be refused or a clear objection where the application would otherwise be approved;
  - any application which has the potential for compensation payable by the Council;
  - any application by or on behalf of a member of staff or Member of the Council;
  - any application where the Council itself is the applicant;
  - any other matter which, notwithstanding this Scheme of Delegation, the Head of Planning Services considers should be brought to the attention of Development Control Committee.
- (5) A matter is to be regarded as being "subject to a level of significant controversy" if:

- more than two letters of objection from neighbours are received where the outcome could otherwise be an approval;
  - more than two letters of support from neighbours are received where the outcome could otherwise be a refusal;
  - advice given by any statutory consultee is inconsistent with the recommendation(s) of the Head of Planning Services.
- (6) “Applications” include:
- full, outline and reserved matters planning applications;
  - applications for advertisement, listed building and conservation area consents;
  - applications to demolish buildings;
  - applications for works to trees covered by tree preservation orders and notifications of works proposed to trees located in conservation areas and to remove hedgerows;
  - applications for renewal of permissions, removal or alteration of conditions;
  - applications relating to power lines;
  - applications for a certificate of lawfulness of existing or proposed use or development;
  - agricultural notifications;
  - applications for development by telecommunications operators;
  - applications made under general regulations for minor works equivalent to domestic applications from private householders;
  - applications for certificates of appropriate alternative developments;
  - applications for development from government departments;
  - consultation by neighbouring authorities and Derbyshire County Council.
- (7) “Major applications” mean those defined as such in the Town and Country Planning (General Procedure) Order 1995. “Minor applications” mean householder applications and those not defined as major in the Town and Country Planning (General Procedure) Order 1995.
- (8) Legal agreements under s106 of the Town and Country Planning Act 1990 are to be settled in liaison with the Head of Legal and Democratic Services.
- (9) Enforcement notices under s36 and Part III of the Building Act 1984 are to be served in liaison with the Head of Legal and Democratic Services.
- (10) The Council’s Scheme of Charges under the Building Regulations may be varied:
- by up to and including 10% in consultation with the Head of Finance & Property Services;
  - by more than 10% in consultation with the Head of Finance & Property Services and the Chair or Vice-Chair of the Environment & Development Services Committee, subject to all such decisions being reported to the next meeting of that committee.
- (11) Where an objection is received to an application for street naming or house numbering and that objection remains unresolved, delegated power to determine the application may be exercised only after consultation with the Chair and Vice-Chair of Development Services Committee.

## 8.5 Policy and Economic Regeneration Protocol

- (1) Delegated powers in relation to the Best Value programme are subject to the annual Best Value Performance Plan and Plan Summary approved by Council, and to Best Value Reviews managed by and reported to relevant policy committees.

- (2) Delegated powers in relation to Performance Management are subject to the Performance Management framework approved from time to time by the Finance and Management Committee.
- (3) Delegated powers in relation to consultation are subject to the Consultation Strategy and to specific consultation programmes agreed by relevant committees.
- (4) All Citizens' Panel outcomes will be reported to Members, through the relevant committee or bulletin as appropriate.
- (5) Delegated powers in relation to Equality, Diversity and Social Inclusion are subject to relevant strategies, policies and schemes approved by the Council or appropriate committee.
- (6) Delegated powers in relation to the Community Strategy for South Derbyshire are subject to the Community Strategy produced by the South Derbyshire Local Strategic Partnership and to the Partnership's Constitution. Reports monitoring performance of the Council's contributions to the Community Strategy will be reported to the Improvement Panel and relevant policy committees.
- (7) Delegated powers in relation to the Overview and Scrutiny Committees are subject to the work plans of those committees.
- (8) Delegated powers in relation to Economic Regeneration are subject to the Economic Regeneration Strategy agreed by the Environmental & Development Services Committee, and to the Committee's individual approval of larger or more complex Economic Regeneration projects.

#### 8.6 Housing Services Protocol

- (1) Delegated powers in relation to the modification of Council dwellings to cater for chronically sick or disabled persons is limited to a maximum value of £400 in any one case.

#### 8.7 Leisure and Community Development Protocol

- (1) Delegated powers in relation to the determination of requests to hire commons, parks and recreation grounds do not include the refusal of such requests or the approval of requests not in accordance with the Council's standard terms and conditions of hire. Approvals are to be subject to relevant Ward Members being notified and, where practicable, in consultation with the appropriate Area Committee.

#### 8.9 Environmental Services Protocol

- (1) Delegated powers in relation to the Council's functions under the Licensing Act 2003 must be exercised in accordance with the Statement of Licensing Policy for South Derbyshire District and, in particular, may not be exercised in respect of:
  - any application for a personal licence with unspent convictions;
  - any application to review a premises licence or club premises certificate;
  - any determination of a representation by Derbyshire Constabulary on a temporary event notice;
  - any application for a personal licence, to vary a designated personal licence holder, for the transfer of a premises licence, or for interim authorities, where a representation is made by Derbyshire Constabulary;

- any application for a premises licence or club premises certificate, a provisional statement, or to vary a premises licence or club premises certificate, if any representation is made.
- (2) Delegated powers in relation to hackney carriages or private hire vehicles, operators and drivers do not include the refusal of applications or for their renewal, the suspension or revocation of licences, or the authorisation of legal proceedings in respect of any failure to obtain, or to comply with the conditions of, a licence.
  - (3) Delegated powers in relation to other licensing functions do not include the refusal of applications for licences or for their renewal.
  - (4) Delegated powers in relation to housing, construction and renovation do not include the refusal of applications for grants.
  - (5) Delegated powers in relation to street collections and house-to-house collections are to be exercised in consultation with the Chair or Vice-Chair of the Licensing and Appeals Committee.