

Cabinet 8 September 2022

Officer Delegations - Appendix

Proposed changes to the Constitution

Part 1(9) Finance Contracts and Legal Matters

9.3 Legal Proceedings

The Hhead of Ppaid Sservice or any other officer authorised by them has authority to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Ccouncil or in any case where they consider that such action is necessary to protect the Ccouncil's interest, or otherwise where permitted at law subject to prior consultation with the Monitoring Officer.

With regard to the settlement of any legal proceedings where the settlement terms include the payment of a 'special severance payment', such payment shall be approved as follows:

- (i) The full Council must approve any special severance payments of £100,000 and above; and
- (ii) The approval of the Head of Paid Service and the Leader of the Council must be obtained and recorded for any payments of £20,000 or above but below £100,000 (alongside the approval of any other officers who have approved the payment.

Part 2(10) Delegations to Officers

10.1 Chief Executive

CHIEF EXECUTIVE or their nominees			
	Powers and duties	Statutory Reference	Function Type
22	To institute, prosecute or to defend, compromise to settle (save in the case of special severance payments of £100,000 or above) or to appear in any legal proceedings <u>or prospective legal proceedings and to approve jointly with the Leader of the Council any special severance payments where such payment is £20,000 or above but below £100,000.</u>	Section 222, The Act of 1972 and any other enactment conferring powers on the council <u>Guidance made under Section 26, Local Government Act 1999 relating to special severance payments</u>	Executive or non-executive depending on the context

10.2 Strategic Director for Resources

STRATEGIC DIRECTOR FOR RESOURCES or their nominees shall have the following powers and duties other than those of the Monitoring Officer in Article 7.3			
Governance			
	Powers and duties	Statutory Reference	Function Type
10	To institute, prosecute or to defend, compromise to settle (save in the case of special severance payments of £20,000 or above) or to appear in any legal proceedings <u>or prospective legal proceedings.</u>	Section 222, The Act of 1972 and any other enactment conferring powers on the council	Executive or non-executive depending on the context
19	In consultation with the chief fire officer: (i) to exercise the council's powers of inspection and enforcement; (ii) to issue all notices and licences; and (iii) to institute legal proceedings in relation to the listed enactments.	Safety of Sports Grounds Act 1975; Fire Safety & Safety of Places of Sport Act 1987; Regulatory Reform Act 2001; the Regulatory Reform (Fire Safety) Order 2005; <u>the Fire Safety Act 2021; the Building Safety Act 2022;</u> and any Orders, Regulations or Directives made amending, varying, extending or re-	Non-executive

10.4 Strategic Director for Communities

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees			
Fire and Rescue			
	Powers and duties	Statutory Reference	Function Type
1	To discharge the powers, duties and responsibilities of the council as a fire & rescue service, including in particular: (i) the promotion of fire safety; (ii) the extinguishment of fires and the protection of life and property; (iii) the rescue of persons from road traffic accidents; and (iv) responding to emergencies and other incidents likely to cause harm to persons or to the environment.	Fire & Rescue Services Act 2004 and any Fire & Rescue Service National Framework made by the Secretary of State under Section 21 of the Act and for the time being in force; Safety of Sports Grounds Act 1975; Fire Safety & Safety of Places of Sport Act 1987; Civil Contingencies Act 2004 and any Orders, Rules, Regulations or Directives made amending, varying, extending or re-	Executive or non-executive depending on the context
2	To authorise in writing officers in the fire & rescue service to exercise emergency powers of fire prevention, firefighting or rescue including powers of entry on to premises, moving or breaking into vehicles, closure of highways, traffic regulation and restriction of access to premises and all supplementary statutory powers.	Section 44, Fire & Rescue Services Act 2004 and any Orders, Rules, Regulations or Directives made amending, varying, extending or re-enacting the same	Executive or non-executive depending on the context
3	To exercise the council's powers of inspection and enforcement to appoint officers in the fire & rescue service as inspectors and otherwise to authorise in writing officers in the fire & rescue service to exercise powers of entry on to premises, investigation, sampling and inspection and all supplementary powers and to issue all notices and licences in relation to the listed enactments.	Fire & Rescue Services Act 2004; Safety of Sports Grounds Act 1975; Fire Safety & Safety of Places of Sport Act 1987; Regulatory Reform (Fire Safety) Order 2005 and any Orders, Rules, Regulations or Directives made amending, varying, extending or re-enacting the same.	Executive or non-executive depending on the context

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)**Fire and Rescue (Cont'd)**

	Powers and duties	Statutory Reference	Function Type
4	To deal with all standard requests for secondary employment from uniformed personnel in accordance with the criteria laid down in the National Scheme of Conditions of Service and the department's appropriate service orders; requests only to be referred to the regulatory committee where the proposed secondary employment is of an exceptional nature and clearly requires special consideration.	Section 112, Local Government Act 1972; Fire & Rescue Services Act 2004	Non-executive
5	Authority to make representations in response to applications under the Licensing Act 2003 on behalf of the council as fire authority.	Licensing Act 2003	Executive
6	Authority to make representations in response to applications made under the Gambling Act 2005 and in response to consultation on the Licensing Authorities licensing policies (authority is also given to the Chief Executive and the strategic director for people).	Gambling Act 2005	Executive
7	To determine disputes on terms and conditions satisfactory to the Strategic Director for Resources under the Firefighters' Internal Pension Dispute Resolution Procedures and to nominate appropriate persons to whom such disputes should be referred for a decision in the first instance.	Section 50, Pensions Act 1995	Non-Executive

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)

Trading Standards (cont'd)

	Powers and duties	Statutory Reference	Function Type
4	<p>To institute legal proceedings and to appear on behalf of the council before any Court of Summary Jurisdiction in any proceedings brought under the legislation listed.</p> <p>To exercise the statutory powers and duties of the council to appoint designate, nominate or otherwise authorise suitably qualified and competent officers and persons (whether or not employees of the council), including a chief inspector of weights and measures and other inspectors to enforce all or any part of the listed legislation.</p> <p>Any functions which may be conferred on the County Council at any time by the legislation listed (or by that legislation as amended or re-enacted at any time) or by any subordinate legislation or any direction, designation, appointment, order or other instrument of government made under or for the purposes of that legislation including for the avoidance of doubt any powers of entry, inspection, seizure or other investigation and any power to designate, appoint or otherwise authorise any other person (whether or not an employee of the County Council) for the purpose of the exercise of any such functions, but excluding the power to conduct legal proceedings in a court other than a court of Summary Jurisdiction which is reserved to the Chief Executive in consultation with the Monitoring Officer</p>	<p><u>Air Quality (Domestic Solid Fuels Standards)(England) Regulations 2010</u></p> <p>Animal Health (Hygiene, Sampling etc. and Enforcement)(England) Regulations 2015 Animal Health Act 1981; Animal Health and Welfare Act 1984; Animal Welfare Act 2006; Animals Act 1971; Animals & Animal Products (Examination for Residues & Maximum Residue Limits) (England & Scotland) Regulations 2015; Anti-Social Behaviour Act 2003 - section 54; Apprenticeships, Skills, Children & Learning Act 2009; Avian Influenza (Preventative Measures) (England) Regulations 2006; Beef and Veal Labelling Regulations 2010; Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013; Birmingham Commonwealth Games Act 2020; Business Protection from Misleading Marketing Regulations 2008; Cancer Act 1939; Cattle Identification Regulations 2007; Children and Families Act 2014; Children and Young Persons Act 1933; Children and Young Persons (Protection from Tobacco) Act 1991; Clean Air Act 1993 – Part IV; Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 Climate Change Act 2008; Companies Act 2006; Consumer Credit Act 1974; Consumer Protection Act 1987; Consumer Protection from Unfair Trading Regulations 2008;</p>	<p>Executive</p> <p>or non-executive</p> <p>depending on the context</p>

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)**Trading Standards (cont'd)**

	Powers and duties	Statutory Reference	Function Type
4	Cont'd	Consumer Rights Act 2015; Copyright, Design & Patents Act 1988; Counter Terrorism Act 2008; Crossbows Act 1987; Criminal Justice Act 1988 – Part XI; Criminal Justice and Police Act 2001; Dangerous Dogs Act 1991; Dogs Act 1906; EC Fertilisers (England and Wales) Regulations 2006 Education Reform Act 1988 Part IV; Energy Act 1976 & 2011 Part 1); Enterprise Act 2002; Environmental Protection Act 1990; Equine Identification (England) Regulations 2018; Estate Agents Act 1979; European Union (Withdrawal) Act 2018 as it continues to give effect to legislation made under the European Communities Act 1972 which the council has a duty to enforce; Explosives Act 1875; Fireworks Act 2003; Food and Environment Protection Act 1985; Food for Specific Groups (Information and Compositional Requirements)(England) Regulations 2016; Food Safety Act 1990; Food Safety and Hygiene (England) Regulations 2013; Forgery and Counterfeiting Act 1981; Fraud Act 2006; Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004; Hallmarking Act 1973; Health Act 2006; Health and Safety At Work etc. Act 1974; Housing and Planning Act 2016; Intellectual Property Act 2014 Knives Act 1997;	Executive or non-executive depending on the context

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)

Trading Standards (cont'd)

	Powers and duties	Statutory Reference	Function Type
4	Cont'd	Legal Services Act 2007; Licensing Act 2003; Malicious Communication Act 1988; Medicines Act 1968; Motor Cycle Noise Act 1987; Offensive Weapons Act 2019; Official Controls (Animals, Feed and Food) (England) Regulations 2006; Official Feed and Food Controls (England) Regulations 2009; Olympic Symbol etc. (Protection Act) 1995; Organic Products Regulations 2009; Osteopaths Act 1993; Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008; Performing Animals (Regulation) Act 1925; Petroleum (Consolidation) Regulations 2014; Prices Act 1974; Products of Animal Origin (Disease Control) (England) Regulations 2008; Protection of Animals Act 1911; Psychoactive Substances Act 2016; Public Health Acts 1936 & 1961; Registered Designs Act 1949; Regulatory Enforcement Sanctions Act 2008; Restriction of Offensive Weapons Act 1959; Road Traffic Acts 1988 & 1991; Road Traffic Offenders Act 1988; Tenant Fees Act 2019; Theft Act 1968; Tobacco Advertising and Promotions Act 2002; Tobacco and Related Products Regulations 2016; Trade Descriptions Act 1968; Trade in Animals and Related Products Regulations 2011;	Executive or non-executive depending on the context

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)**Trading Standards (cont'd)**

	Powers and duties	Statutory Reference	Function Type
4	Cont'd	Trade Marks Act 1994; Unsolicited Goods and Services Act 1971; Unsolicited Goods and Services (Amendment) Act 1975; Video Recordings Act 1984; Vehicle (Crime) Act 2001; Weights and Measures Act 1985	Executive or non-executive depending on the context

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)

Trading Standards (cont'd)

	Powers and duties	Statutory Reference	Function Type
4	Cont'd	Legal Services Act 2007; Licensing Act 2003; Malicious Communication Act 1988; Medicines Act 1968; Motor Cycle Noise Act 1987; Offensive Weapons Act 2019; Official Controls (Animals, Feed and Food) (England) Regulations 2006; Official Feed and Food Controls (England) Regulations 2009; Olympic Symbol etc. (Protection Act) 1995; Organic Products Regulations 2009; Osteopaths Act 1993; Pesticides (Maximum Residue Levels) (England and Wales) Regulations 2008; Performing Animals (Regulation) Act 1925; Petroleum (Consolidation) Regulations 2014; Prices Act 1974; Products of Animal Origin (Disease Control) (England) Regulations 2008; Protection of Animals Act 1911; Psychoactive Substances Act 2016; Public Health Acts 1936 & 1961; Registered Designs Act 1949; Regulatory Enforcement Sanctions Act 2008; Restriction of Offensive Weapons Act 1959; Road Traffic Acts 1988 & 1991; Road Traffic Offenders Act 1988; Tenant Fees Act 2019; Theft Act 1968; Tobacco Advertising and Promotions Act 2002; Tobacco and Related Products Regulations 2016; Trade Descriptions Act 1968; Trade in Animals and Related Products Regulations 2011;	Executive or non-executive depending on the context

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)**Trading Standards (cont'd)**

	Powers and duties	Statutory Reference	Function Type
4	Cont'd	Trade Marks Act 1994; Unsolicited Goods and Services Act 1971; Unsolicited Goods and Services (Amendment) Act 1975; Video Recordings Act 1984; Vehicle (Crime) Act 2001; Weights and Measures Act 1985	Executive or non-executive depending on the context

STRATEGIC DIRECTOR FOR COMMUNITIES or their nominees (cont'd)

Other Functions

	Powers and duties	Statutory Reference	Function Type
1	In relation to Pride in Camp Limited: (i) to arrange for secondments of staff to the company; (ii) to make a loan of £250,000 for the Early Purchase Scheme; (iii) to make operating payments to the Board; (iv) to make provisions for £445,000 capital works for environmental improvements; (v) to approve additional expenditure up to the shortfall amount; (vi) to agree contribution account amounts; (vii) to demand payment of bank guarantee proportions if called upon; (viii) to provide notice that the council will not be attending a general meeting; and (ix) to state in writing to the other partners why consent to any item in Article 15 was not given.	Section 2, Local Government Act 2000	Executive
2	In relation to Pride in Camp Hill Limited, jointly with the strategic director for resources: (i) to give consent to the appointment of directors other than partner directors; (ii) to agree to the WCC director not being on a committee/sub-committee of the company; (iii) to demonstrate best endeavours to obtain the necessary consents for Dev1; and (iv) to arrange for the transfer of freehold of Dev1.	Section 2, Local Government Act 2000	Executive
3	In relation to Pride in Camp Hill Limited, jointly with the strategic director for resources: (i) to receive quarterly the current cash flow, contribution account, minutes of meetings; and (ii) in the event of an early exit notice, attend a resolution meeting.	Section 2, Local Government Act 2000	Executive
4	<u>In relation to functions as a provider of Gypsy and Traveller related accommodation to provide land in consultation with the Strategic Director for Resources and to exercise any function in the management of sites where caravans may be brought for use of temporary purposes or for use as a permanent residence for members of the Gypsy and Traveller community.</u>	<u>Section 24 Caravan Sites and Control of Development Act 1960; Mobile Homes Act 1983 (or by that legislation as amended or re-enacted at any time) or by any subordinate legislation or any direction, designation, appointment, order or other instrument of government</u>	<u>Executive</u>

10.5 Chief Fire Officer

<u>STRATEGIC DIRECTOR FOR COMMUNITIES/CHIEF FIRE OFFICER or their nominees</u>			
<u>Fire and Rescue</u>			
	<u>Powers and duties</u>	<u>Statutory Reference</u>	<u>Function Type</u>
<u>1</u>	<p><u>To discharge the powers, duties and responsibilities of the council as a fire & rescue service</u><u>Fire and Rescue Authority,</u> including in particular:</p> <p>(i) <u>the promotion of fire safety;</u> (ii) <u>the extinguishment of fires and the protection of life and property;</u> (iii) <u>the rescue of persons from road traffic accidents; and</u> (iv) <u>responding to emergencies and other incidents likely to cause harm to persons or to the environment.</u></p>	<p><u>Fire & Rescue Services Act 2004 and any Fire & Rescue Service National Framework made by the Secretary of State under Section 21 of the Act and for the time being in force; Safety of Sports Grounds Act 1975; Fire Safety & Safety of Places of Sport Act 1987; Civil Contingencies Act 2004 and any Orders, Rules, Regulations or Directives made amending, varying, extending or re-</u></p>	<p><u>Executive or non- executive depending on the context</u></p>
<u>2</u>	<p><u>To authorise in writing officers in the fire & rescue service to exercise emergency powers of fire prevention, firefighting or rescue including powers of entry on to premises, moving or breaking into vehicles, closure of highways, traffic regulation and restriction of access to premises and all supplementary statutory powers.</u></p>	<p><u>Section 44, Fire & Rescue Services Act 2004 and any Orders, Rules, Regulations or Directives made amending, varying, extending or re-enacting the same</u></p>	<p><u>Executive or non- executive depending on the context</u></p>
<u>3</u>	<p><u>To exercise the council's powers of inspection and enforcement to appoint, designate, nominate or otherwise authorise suitably qualified and competent officers and persons (whether or not employees of the council in respect of the powers of inspection) in the fire & rescue service as inspectors and otherwise to authorise in writing those officers in the fire & rescue service to exercise powers of entry on to premises, investigation, sampling and inspection and all supplementary powers and authorise officers in the fire & rescue service to issue all notices and licences in relation to the listed enactments.</u></p>	<p><u>Fire & Rescue Services Act 2004; Safety of Sports Grounds Act 1975; Fire Safety & Safety of Places of Sport Act 1987; Regulatory Reform (Fire Safety) Order 2005 and any Orders, Rules, Regulations or Directives made amending, varying, extending or re-enacting the same.</u></p>	<p><u>Executive or non- executive depending on the context</u></p>

STRATEGIC DIRECTOR FOR COMMUNITIES CHIEF FIRE OFFICER or their nominees

Fire and Rescue (Cont'd)

	<u>Powers and duties</u>	<u>Statutory Reference</u>	<u>Function Type</u>
<u>4</u>	<u>To deal with all standard requests for secondary employment from uniformed personnel in accordance with the criteria laid down in the National Scheme of Conditions of Service and the department's appropriate service orders; requests only to be referred to the regulatory committee where the proposed secondary employment is of an exceptional nature and clearly requires special consideration.</u>	<u>Section 112, Local Government Act 1972;</u> <u>Fire & Rescue Services Act 2004</u>	<u>Non-executive</u>
<u>5</u>	<u>Authority to make representations in response to applications under the Licensing Act 2003 on behalf of the council as fire authority.</u>	<u>Licensing Act 2003</u>	<u>Executive</u>
<u>6</u>	<u>Authority to make representations in response to applications made under the Gambling Act 2005 and in response to consultation on the Licensing Authorities licensing policies (authority is also given to the Chief Executive and the strategic director for people).</u>	<u>Gambling Act 2005</u>	<u>Executive</u>
<u>7</u>	<u>To determine disputes on terms and conditions satisfactory to the Strategic Director for Resources under the Firefighters' Internal Pension Dispute Resolution Procedures and to nominate appropriate persons to whom such disputes should be referred for a decision in the first instance.</u>	<u>Section 50, Pensions Act 1995</u>	<u>Non-Executive</u>