

Part 3

Responsibility for Functions

Part 3

Responsibility for Functions

Part 3 - Responsibility for Functions**Section A: Responsibility for “Local Choice” functions***[Notes:*

- (a) *The use of the word “appeal” in items 3 to 6 in the table below is intended only to apply to those instances where a formal right of legal appeal exists. Processes which involve the making of representations or access to a review do not come within the legal ambit of an “appeal”. The word “appeal” is a technical one, involving specific legal consequences and the inappropriate use of that word to describe representation or review processes should be avoided.*
- (b) *In items 4 to 6 in the table below, the Executive’s responsibilities are concerned with making the arrangements. The actual hearing of an appeal will be handled by a Panel, appointed by the Chief Executive, whose composition will comply with any statutory requirements.*
- (c) *In item 11 in the table below, the “revocation of appointments” excludes considering and determining representations seeking the removal of any LEA appointed school governor, which is the function of the Corporate Governance Committee]*

	Function	Responsible Body
1	Leicestershire Act 1985: section 10 (control of floodlighting) section 16 (consent to projections) section 18 (pedal cycles) section 48 (buildings used for storage of flammable substances) section 58 (byelaws as to leisure centres)	Development Control and Regulatory Board (DC&RB)
2	Leicestershire Act 1985: section 4 (interference with traffic signs etc) section 5 (statutory undertakers’ apparatus etc) section 9 (recovery of expense of fencing etc) section 11 (vesting of former highway land) section 12 (damage to footways etc) section 13 (plans etc of new streets) section 14 (temporary prohibition of traffic etc) section 15 (affixing of traffic signs to walls) section 17 (provision of trees and shrubs) section 41 (defacing of streets) section 59 (provision of parking places in parks etc) section 60 (contribution towards provision of recreational facilities) section 82 (insurance of visiting pupils) section 83 (power to provide information) section 84 (publication of bulletins etc) section 85 (certain particulars to be furnished in writing)	Executive

Part 3

Responsibility for Functions

	<p>section 86 (evidence of confirmation of committee decisions etc)</p> <p>section 87 (training arrangements)</p> <p>section 88 (recording of documents)</p> <p>section 89 (microfilming of documents)</p> <p>section 90 (restriction on use of armorial bearings)</p>	
3	Determination of an appeal against any decision made by or on behalf of the County Council	Panel appointed by Chief Executive
4	Making arrangements for appeals against exclusion of pupils - section 67 of the School Standards and Framework Act 1998 ("the 1998 Act")	Executive
5	Making arrangements for admission appeals - section 94 of the 1998 Act	Executive
6	Making arrangements for appeals by governing bodies - section 95 of the 1998 Act	Executive
7	Conducting Best Value Reviews	Executive
8 & 9	<p>Obtaining information under section 330 of the Town and Country Planning Act 1990 as to interests in land</p> <p>Obtaining information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to persons interested in land</p> <p>- (a) in connection with functions which are the responsibility of the Executive</p> <p>- (b) in connection with functions which are not the responsibility of the Executive</p>	<p>(a) Executive</p> <p>(b) DC&RB</p>
10	<p>Making agreements for the execution of highways works</p> <p>- (a) in connection with the improvement of highways</p> <p>- (b) in connection with development control</p>	<p>(a) Executive</p> <p>(b) DC&RB</p>
11	<p>Making and revocation (except where the revocation is within the remit of the Corporate Governance Committee) of appointments</p> <p>- (a) in connection with functions which are the responsibility of the Executive</p> <p>- (b) in connection with functions which are not the responsibility of the Executive</p>	<p>(a) Executive</p> <p>(b) Constitution Committee</p>

Part 3

Responsibility for Functions

Section B: Responsibility for “County Council” functions*[Note:*

- (a) In the context of Leicestershire County Council these non-executive “County Council” functions fall within the remit of a series of committees or boards within what is described as the “Regulatory” area.*
- (b) Since these committees and boards are intended to reflect the political composition of the full County Council, their membership will be that determined from time to time by the full County Council and will be listed in the record maintained by the Chief Executive for public inspection at County Hall and will be published on the County Council’s website.*
- (c) Where functions listed in Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 are described by reference to a specific statutory provision, for the purposes of this Section those functions shall be deemed to include any subsequent statutory modification or extension.]*

Development Control and Regulatory Board

1. The Development Control and Regulatory Board shall not have power to appoint subcommittees.
2. The extent to which the non-executive powers within the Board’s remit have been delegated to heads of departments, either by the full County Council or by the Board (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Board shall be:
 - (a) **Planning and conservation.**
 - (i) The exercise of those functions relating to town and country planning and development control which are specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the “Functions Regulations”) and which are relevant to a county council;

Part 3

Responsibility for Functions

- (ii) Offering advice to the Cabinet in response to consultation exercises relating to planning applications referred by District Councils or other agencies.
- (b) **Commons registration.** The exercise of the functions relating to the registration of common land or town and village greens and registration of the variation of rights of common as set out in Schedule 1 to the Functions Regulations.
- (c) **Licensing.** Those functions relating to licensing which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (d) **Marriages.** The exercise of the power to approve premises for the solemnisation of marriages as specified in Schedule 1 to the Functions Regulations.
- (e) **Highways use and regulation.** The exercise of those functions relating to the regulation of the use of highways and the miscellaneous highways functions which are set out in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (f) **Health and safety.** The exercise of those functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the County Council’s capacity as employer.
- (g) **Byelaws.** Making recommendations to the County Council relating to the making, amendment, revocation or re-enactment of byelaws which are specified in Schedule 1 to the Functions Regulations and which are relevant to the County Council.
- (h) **Charges.** Determination of charges which should be made (and if so, the amount of the charge) for any approval, consent, licence, permit or registration the issue of which is within the remit of the Board.

Local Pension Committee

1. The Local Pension Committee shall not have power to appoint subcommittees but the County Council may appoint an Investment Subcommittee to assist the Committee to carry out its functions.
2. The extent to which the non-executive powers within the Committee’s remit have been delegated to heads of departments, either by the full County Council or by the Board (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part;
 - (b) in the Financial Procedure Rules in Part 4F; and

Part 3

Responsibility for Functions

- (c) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be those related to the maintenance of the Leicestershire Pension Fund. The Committee may carry out these functions with the assistance of an Investment Subcommittee with the following terms of reference.

Investment Subcommittee

1. The functions delegated to the Investment Subcommittee shall be:
- (a) to monitor the performance of investment managers, particularly those whose performance is causing concern.
 - (b) To assist in the selection of investment managers.
 - (c) To determine the timing of changes in asset allocation, within the Investment Strategy agreed by the Local Pension Committee.
 - (d) To consider changes to the portfolio size of investment managers.
 - (e) To determine the management of the 'opportunity pool'.
 - (f) To undertake any other duties as requested by the Local Pension Committee.

[Note: the membership of the Committee includes representatives of other local bodies whose employees are members of the Leicestershire Pension Fund.]

Corporate Governance Committee

1. The Corporate Governance Committee shall have power to appoint subcommittees to deal with any appointments for which it has responsibilities.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
- (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.

Part 3

Responsibility for Functions

3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be:

Corporate Governance Matters

- (a) The promotion and maintenance of high standards within the Authority in relation to the operation of the Council's Local Code of Governance and in particular to ensure:
- (i) that an adequate risk management framework and associated control environment is in place;
 - (ii) that the Authority's financial and non financial performance is properly monitored;
 - (iii) proper oversight of the financial reporting processes;
 - (iv) that the Council's Treasury Management arrangements are appropriate and regularly monitored.
- (b) To review the Council's Local Code of Governance as necessary and make recommendations to the County Council to ensure that it remains relevant to the Council's work and practices.
- (c) To satisfy themselves that the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund including the County Council's Annual Governance Statement have been prepared in accordance with best practice.
- (d) To make recommendations to the County Council either directly or via the Constitution Committee on any amendments required to the Financial Procedure Rules and Contract Procedure Rules set out in Parts 4F and 4G of this Constitution and to make such changes as are considered necessary to the Standard Financial Instructions.
- (e) To monitor the adequacy and effectiveness of the external audit of the Council's services and functions and to:-
- (i) consider, comment upon and note the arrangements chosen by the Council to select and appoint its statutory external auditor;
 - (ii) review the External Auditor's disclosure of independence and objectivity and satisfy itself that no issues with compliance with ethical standards or problems with audit quality have been raised;
 - (iii) consider the nature and scope of the external audit of the Council's services and functions;
 - (iv) consider external audit reports including the Auditor's Annual Report;
 - (v) monitor the County Council's response to the external auditors findings and the implementation of external audit recommendations.

Part 3

Responsibility for Functions

- (f) To monitor the adequacy and effectiveness of the Internal Audit Service and to: -
- (i) fulfil the role of 'the Board' for the purposes of the Public Sector Internal Audit Standards (the PSIAS);
 - (ii) Approve the internal audit charter;
 - (iii) Approve risk based Internal Audit plans;
 - (iv) monitor progress against plans through the receipt of periodic progress reports and an annual Internal Audit report containing the annual opinion on the overall adequacy and effectiveness of the control environment and conformance to PSIAS;
 - (v) consider major Internal Audit findings and recommendations;
 - (vi) monitor the response to major Internal Audit findings and the implementation of its recommendations;
 - (vii) contribute to and support an external quality assessment of the internal audit function.
- (g) Monitor the effectiveness of officer arrangements for ensuring an adequate internal control environment and combating fraud and corruption.
- (h) Monitor the arrangements for the identification monitoring and management of strategic and operational risk within the Council.
- (j) To liaise with the Executive and other bodies as appropriate on matters of corporate governance and financial accountability.
- (k) Advising on training for members of the Council on matters relating to the Corporate Governance of the Authority.

Standards of Conduct Matters

- (l) The promotion and maintenance of high standards of conduct by members and co-opted members within the County Council, including:-
- (i) Advising the County Council on the adoption or revision of its Code of Conduct;
 - (ii) Monitoring and advising the County Council about the operation of its Code of Conduct in the light of best practice and changes in the law.
- (m) To approve the Council's procedure for handling Member Conduct Complaints. (*See also the delegation to the Director of Law and Governance*).
- (n) Ensuring that all members and co-opted members of the County Council have access to training in all aspects of the Code of members, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code.

Part 3

Responsibility for Functions

- (o) Making arrangements for the appointment of independent persons whose views must be sought about allegations of a breach of the Members' Code of Conduct in accordance with the provisions of the Localism Act 2011.
- (p) To have oversight as part of the annual complaints report of the findings of the Local Government Ombudsman where there is a finding of maladministration against the Council.
- (q) To make voluntary payments or provide other benefits in cases of maladministration under section 92 of the Local Government Act 2000. *(See also the delegation to the Director of Law and Governance.)*
- (r) Making arrangements for members to receive dispensations to speak on or participate in matters in which they have interests. *(see also the delegation to the Director of Law and Governance.)*
- (s) Exempting members from vacation of office by failure to attend meetings.
- (t) Considering and determining representation seeking the removal of any LEA appointed school governor.
- (u) Subject to the powers of the Employment Committee in relation to Local Conditions of Service, advising as necessary on matters relating to the conduct of employees and procedures relating to the handling of complaints, including "whistle blowing".

Constitution Committee

1. The Constitution Committee shall not have power to appoint subcommittees, save in relation to members' allowances.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, the functions delegated to the Committee shall be:

Part 3

Responsibility for Functions

- (a) **Elections.** Those functions relating to elections which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (b) **Statement of Accounts.** Approval of the County Council's Statement of Accounts and those relating to the Leicestershire Pension Fund.
- (c) **Names and status.** Those functions relating to the name and status of areas and individuals which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (d) **Bills.** Advising the Council on the promotion or opposition of local or personal Bills which are specified in Schedule 1 to the Functions Regulations and which are relevant to a county council.
- (e) **Appointments.** Making and revoking appointments, except where the full County Council, the Cabinet, the Corporate Governance Committee or other board or committee has such responsibility.
- (f) **Members' Allowances Scheme.** Advising the County Council on the Members' Allowances Scheme [*Note: approval of the scheme cannot be delegated by the County Council to a committee.*]
- (g) **Members' Services.** Approving the arrangements for providing appropriate support services to meet the needs of elected members.
- (h) **Constitution.** Advising the County Council on the Constitution.
- (i) **Charitable Trustee.** Those functions relating to the Council's role as a Charitable Trustee where the Council has been identified as a trustee of a charity or trust or the recipient of a bequest and holds property or assets on trust, including consideration of matters where there is a conflict or potential conflict between the Council's interests and those of the Charitable Trust or bequest.

Employment Committee

1. The Employment Committee shall not have power to appoint subcommittees.
2. The extent to which the non-executive powers within the Committee's remit have been delegated to chief officers, either by the full County Council or by the Committee (or by any of the bodies previously charged with the functions now within its remit), will be found:
 - (a) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
 - (b) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.
3. Subject to the delegations described in paragraph 2, and to the provisions of the Officer Employment Procedure Rules (Part 4H of the Constitution) the functions delegated to the Committee shall be:

Part 3

Responsibility for Functions

- (a) power to determine the terms and conditions on which staff hold office, including disciplinary and grievance procedures.
 - (b) making effective arrangements to ensure compliance with employment legislation and, where necessary, employment codes of practice.
4. The powers of the Employment Committee shall not extend to consultations or negotiations with representatives of the recognised trade unions since other mechanisms exist within the County Council to undertake these functions.

Section C: Responsibility for Executive and Health and Wellbeing Functions

1. The County Council has established a Health and Wellbeing Board as a Subcommittee of the Executive to carry out the functions set out in Article 7A of Part 2 of this Constitution.
2. The Health and Wellbeing Board shall not have the power to appoint subcommittees without the consent of the County Council.

[Notes:

- (a) *The Executive may not, in accordance with Article 7.08 in Part 2, delegate any executive functions to an individual member of the Executive. While that Article remains in operation, Table C2 will have no effect.*
- (b) *Executive powers have been delegated to officers.]*

Delegation to a subcommittee: Table C1

Responsible Body	Functions	Onward limits on delegation
Health and Wellbeing Board	To approve the Better Care Fund Plan	No onward delegation permitted

Delegation to an individual member of the Executive: Table C2

Responsible Member	Functions	Onward limits on delegation
<i>[to be completed if and when functions are delegated to an individual member]</i>		

Part 3

Responsibility for Functions

Joint Arrangements

Eastern Shires Purchasing Organisation (ESPO).

The Executive has established joint arrangements for the purchase of goods and supplies and the provision of agreed services by establishing a consortium with Lincolnshire County Council, Cambridgeshire County Council, Norfolk County Council, Warwickshire County Council and Peterborough City Council, which is called the Eastern Shires Purchasing Organisation (ESPO). A joint committee has been established in accordance with section 102 of the Local Government Act 1972. The executive has delegated to the joint committee the powers to:-

- (i) Provide a comprehensive cost effective professional purchasing service based on the overall requirements of the Member Authorities (and Customers where applicable);
- (ii) Maintain effective, efficient and economical arrangements for the supply of goods and/or services;
- (iii) Achieve overall cost savings and efficiencies for the Member Authorities by providing a simple, effective system for the supply of goods and/or services;
- (iv) Provide timely and relevant information to the Member Authorities based on their requirements; and
- (v) Provide the ESPO Services [defined in Schedule 2 to the Partnership Agreement] to the Member Authorities (and Customers where applicable) based on their requirements.

Parking and Traffic Regulations Outside London Adjudications Joint Committee (PATROL)

The Executive has entered into this national Joint Committee arrangement (for which Manchester City Council act as lead authority) for the provision of an adjudications service to ensure that parking restrictions can be enforced in Leicestershire, under Section 101 of the Local Government Act 1972.

East Midlands Shared Services

The Executive has established joint arrangements with Nottingham City Council for the delivery of a programme of shared services including Human Resources, Payroll and Finance Transactional Services. A joint committee has been established in accordance with Section 102 of the Local Government Act 1972. The Executive has delegated to the joint committee the power to provide support services to Leicestershire and Nottingham Councils and other external clients.

Part 3

Responsibility for Functions

Police and Crime Panel

Joint arrangements with Leicester City Council, Rutland Council and the District Councils for the purposes of holding to account the Police and Crime Commissioner for the execution of his or her role as required by legislation in force for the time being.

[Note: More detailed working arrangements relating to the operation of the Police and Crime Panel are set out on the County Council website at <https://www.leicestershire.gov.uk/about-the-council/how-the-council-works/other-bodies/the-police-and-crime-panel>.]

Joint Committee for the Local Government Pension Scheme Central Investment Pool

The County Council has established joint arrangements with eight Midlands-based Local Government Pension Funds (Leicestershire, Cheshire, Shropshire, Staffordshire, West Midlands, Derbyshire, Nottinghamshire and Worcestershire) to form the Local Government Pension Scheme Central Investment Pool. A joint committee has been established in accordance with section 102 of the Local Government Act 1972 to enable representatives from the eight authorities to meet, ask questions of the operator of the Investment Pool and challenge the performance of investments and investment managers.

Delegation to and from other local authorities

On-Street Parking

The Cabinet has delegated to the District Councils on 4 June 2007 the task of maintaining on-street parking regulations. That is, patrolling on-street areas and where required issuing Penalty Charge Notices where breaches of the regulations apply. The details are the subject of a Service Level Agreement.

The County Council has accepted a reciprocal delegation of necessary notice processing powers from the District Councils to enable the County Council to meet its obligations under the Service Level Agreement.

Deprivation of Liberty Assessments

The County Council has accepted on 25 March 2009 the delegation of social care and health functions from Rutland Council, East Leicestershire and Rutland Clinical Commissioning Group and West Leicestershire Clinical Commissioning Group to carry out Deprivation of Liberty Assessments on behalf of those bodies.

Travellers

The County Council has accepted on 8 July 2009 pursuant to the Local Government Acts 1972 and 2000, the delegation of functions from Leicester City Council in relation

Part 3

Responsibility for Functions

to unauthorised encampments within the area of Leicester City and from Rutland Council in relation to unauthorised encampments in the area of Rutland, such delegation to take effect from the date of completion of the associated Compact Agreement.

Community Equipment Services

The Cabinet has delegated to Leicester City Council on 27 July 2010 so much of the health related functions undertaken by the County Council as may be necessary to enable the City Council to provide integrated community equipment services for older people and people with disabilities in Leicester and Leicestershire.

Trading Standards Functions and Responsibilities

The Cabinet has delegated to Birmingham City Council on 5 April 2011 the functions of investigating, administering and enforcing the legislation and offences at common law in so far as those relate to or arise from investigations into illegal money lending activities within Leicestershire, including the power to institute legal proceedings in those cases, as appropriate, pursuant to section 101 of the Local Government Act, 1972 in accordance with the provisions of Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and Sections 13 and 19 of the Local Government Act 2000.

Trading Standards Service Practical Arrangements for the Handling of Criminal/Civil Proceedings Involving More than One Local Authority

The Cabinet on 13 September 2013 authorised the Chief Executive to enter into arrangements under section 101 of the Local Government Act 1972 with other local authorities, involving the delegation of functions of the County Council relating to legislation enforced by the Trading Standards Service to such local authorities, in cases where he considers it will best serve the interests of justice and/or enable cases involving more than one authority to be pursued efficiently and effectively.

The County Council on 25 September 2013 delegated authority to the Chief Executive to enter into arrangements under Section 101 of the Local Government Act 1972 with other local authorities, involving the acceptance of the delegation of any of the functions relating to legislation enforced by the Trading Standards Service from such other local authority, in cases where he considers it will best serve the interest of justice and/or enable cases involving more than one authority to be pursued efficiently and effectively.

The County Council on 25 September 2013 delegated authority to the Director of Law and Governance and Head of Regulatory Services or officers nominated by them to institute proceedings (civil and/or criminal) pursuant to any arrangements entered into under the paragraph immediately above.

Part 3

Responsibility for Functions

Internal Audit

The County Council on 22 March 2017 accepted a delegation from Leicester City Council under section 9EA of the Local Government Act 1972 and the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 to carry out Leicester City Council's internal audit function.

Care and Mental Health Acts

The County Council has accepted on 21 March 2018 the delegation of the following functions from Rutland Council:

- (i) Assessments of need pursuant to Section 9 of the Care Act 2014 in respect of people aged between 18 and 64 years with mental health problems;
- (ii) Making arrangements for suitable care to be put in place pursuant to Section 2 of the Care Act 2014 where such need has been identified;
- (iii) Carrying out the statutory duties of Approved Mental Health Act Professionals pursuant to Section 13 of the Mental Health Act 1983.

The Cabinet has delegated to Leicester City Council on 24 May 2019 the statutory functions of the County Council in respect of:

- i) enquiries pursuant to Section 42 of the Care Act 2014 in respect of safeguarding adults from abuse, and
- ii) carrying out the statutory duties of Approved Mental Health Act Professionals pursuant to Section 13 of the Mental Health Act 1983

during the following hours:

- i) Monday to Thursday before 08:30 and after 17:00
- ii) Fridays before 08:30 and after 16:30
- iii) Saturdays, Sundays, and public and bank holidays;

Part 3

Responsibility for Functions

Delegation to officers

The extent to which executive powers within the Executive's remit have been delegated to heads of departments by the Executive (or by any of the bodies, including the County Council, previously charged with the functions now within its remit), will be found:

- (i) in the general scheme of delegation to heads of departments which appears in Section D of this Part; and
- (ii) in the record of specific delegations maintained by the Chief Executive for public inspection at County Hall and which constitutes Part 9 of this Constitution.

**Section D: General scheme of delegation to
Chief Officers**

[Notes:

- (a) This general scheme of delegation relates to both executive and non-executive functions.*
- (b) This general scheme of delegation is supplemented by a series of specific decisions which:

 - (i) define which officer is to authorised to act as the "Proper Officer" for specified purposes; and*
 - (ii) give additional delegated powers to heads of departments in relation to particular issues or areas of activity.**

The record of those specific decisions is maintained by the Chief Executive, is available for public inspection at County Hall during normal office hours and constitutes Part 9 of this Constitution.]

Preamble

1. The following delegated powers should be read in conjunction with Financial Procedure Rules (Part 4F) and Contract Procedure Rules (Part 4G).
2. Officers should also have regard to specific delegations to heads of departments, to the Standard Financial Procedures, to the personnel policies and procedures, and to any departmental rules and conventions, before exercising powers.
3. The powers delegated to officers under this scheme are in respect of executive or non-executive functions as the case may be.
4. In the case of a non-executive function, "relevant body" means the body responsible for the non-executive function concerned.

Part 3

Responsibility for Functions

General conditions of delegation

5. Any exercise of delegated powers by officers:-
 - (a) shall comply with the Meeting Procedure Rules (Part 4A), Financial Procedure Rules (Part 4F) and Contract Procedure Rules (Part 4G) and the Standard Financial Instructions made by the Executive;
 - (b) shall not authorise expenditure except in accordance with the approved budget or capital programme, and where other further approval is required, shall not precede that approval;
 - (c) shall not involve a key decision save in exceptional circumstances where it may be necessary for the Chief Executive to act as a matter of urgency under paragraph 12 below;
 - (d) shall not make a new policy or amend an existing policy of the County Council as determined at elected member level except in so far as is permitted under paragraph 23 below;
 - (e) shall be in accordance with any approved scale or scheme and any directions of the Executive or other relevant body; and
 - (f) shall be the subject of prior consultation with the appropriate professional or technical officer of the County Council in any case involving professional or technical considerations not within the province of the head of department concerned.
 - (g) follow any appropriate legislative, regulatory, consultation, equalities or procedural requirements that may be required;
 - (h) have identified and managed appropriate strategic and operational risks within the officer's area of responsibility;
 - (i) be in accordance with the decision-making requirements set out in this Constitution including requirements for decision records and access to information.

6. Any delegation to a head of department may be exercised on his or her behalf by any officer authorised by him or her either generally or specifically for the purpose and in all cases by the Chief Executive.

7. Any proper officer function or delegation to the Chief Executive may in his/her absence be exercised by the Director of Corporate Resources and in both their absence, the Director of Law and Governance.

8. Subject to any express instruction to the contrary from the delegating body, any power to approve also includes power to refuse, power to impose appropriate conditions and power to amend decisions.

Part 3

Responsibility for Functions

9. Where an officer is authorised or designated as a Proper Officer for the purposes of any legislation, that authorisation (unless it specifically states to the contrary) will be deemed to authorise that officer to undertake all the powers and duties of an authorised officer as are specified in that legislation. These may include (but are not restricted to) the power to enter on land, undertake inspections, serve notices, take samples and remove goods.
10. Where a power or duty is delegated to an officer, either directly or through designation as an authorised officer, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the officer in question has the power to determine whether or not those circumstances exist or whether those conditions have been fulfilled in the name of and with the authority of the Council.
11. Delegation to officers shall be without prejudice to the overriding right of the County Council, Executive or other relevant body itself to decide any matter for which it has the capacity under the Local Government Act 2000 to take a decision or to call for information about a particular case or class of case relevant to its competence. In particular, a head of department may in any case, in lieu of exercising his or her delegated powers, refer a matter to the Executive or other relevant body, as the case may be, for decision.
12. Subject to the foregoing conditions and to any special conditions which may have been or may in future be applied in respect of particular matters, heads of departments will be expected to make such decisions and to initiate such action as they deem necessary in the interests of the efficient running of their departments and the services which they administer.
13. In the general scheme of delegation the term "employees" shall not include teachers employed by schools.
14. Delegations relate to all provisions for the time being in force under any applicable legislation. Delegations under a specific legislative provision will include references to Regulations and other subordinate legislation made thereunder and incorporate any amendment to or re-enactment of that provision.
15. Functions, matters, powers, authorisations, delegations, duties and responsibilities within this Scheme will be construed in a broad and inclusive fashion and will include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything so specified.
16. Where a power or duty delegated under this Scheme includes a power to take enforcement action, and/or to recover costs, fees or charges, the delegation will include the power to take all necessary action to recover such fees, costs or charges by way of civil debt or otherwise.

Part 3

Responsibility for Functions

General delegations to the Chief Executive

17. **Amendments to the Constitution:** To amend this Constitution to reflect reorganisations, changes in job titles and vacancies (where such changes result in redistributing existing delegations), to reflect changes in law and good practice and to effect member decisions.
18. **Urgent Action:** Power to take action between meetings which he or she considers is urgent after consultation:-
- (a) On matters within the responsibility of the Executive, with the Leader or such other member of the Executive as may be nominated by the Leader;
or
- (b) On matters within the responsibility of a relevant body or with the Chairman and relevant Group Spokesmen of the body concerned;
- subject to the details of such action being reported for information to the next appropriate meeting of the body concerned.
- To authorise any action reasonably necessary to protect the health, safety or welfare of individuals or the safety of property.
19. **Proper officers:** To appoint officers as proper officers for the purposes of any specific Council service, function or as required in law and to act as the Proper Officer where another officer has not been appointed, and to amend the Proper Officer provisions set out in Part 9 of this Constitution accordingly.
20. **Other officer delegations:** To exercise all delegated functions to officers in the absence of relevant officers.
21. **Emergency planning:** To discharge emergency planning and civil protection functions.

General delegations to Chief Officers

Subject to the provisions of the preceding paragraphs:-

22. **Appointment of employees:** power to appoint, within the approved budget or approved external funding, all employees below the level of chief officer. The appointment may be at any point within the approved salary scale.
- To implement changes to staffing structures subject to prior consultation with all appropriate parties as required by law and in line with the Council's own policies and procedures.

Part 3

Responsibility for Functions

To enter into reciprocal arrangements for the authorisation and appointment of officers to facilitate cross-border co-operation in the discharge of delegated functions with any other authority.

23. **Finance:** To manage the finance of their departments to ensure value for money and the development of budget policy options with a detailed assessment of financial implications in accordance with the County Council's Medium Term Financial Strategy.

To enter into contracts. (*See also the contract procedure rules.*)

To incur revenue expenditure within the approved budget or approved external funding on non-employee related items, subject to the Chief Finance Officer having the discretion to lay down conditions, either generally or in any particular case, and subject to the approval of the Cabinet where the Chief Finance Officer considers this to be appropriate.

24. **Tenders and quotes:** in exercising the power in paragraph 11 above the Head of Department shall comply with the provisions of the Contract Procedure Rules.

25. **Grants and External Funding:** power after consultation with the relevant Lead Member to apply for and accept grants and external funding subject to:-

- (i) there being no additional costs to the Authority for which there is no budget or capital programme provision;
- (ii) there being no ongoing costs to the Authority for which there is no budget provision;
- (iii) approval being obtained from the Chief Finance Officer to any contingent liabilities for repayment should any conditions not be met;
- (iv) any associated agreement being made with the approval of the Director of Law and Governance;
- (v) such conditions as the Chief Finance Officer may lay down from time to time.

26. **Provision of Grants and Financial Assistance:** power to make grants and provide financial assistance in accordance with such schemes as may be adopted by the Council subject to provision having been made within the budget and any conditions laid down by the Chief Finance Officer.

27. **Appointment of Consultants:** the powers in this scheme (and their limitations) will extend to the appointment of:-

- specialist technical consultants
- management consultants

Part 3

Responsibility for Functions

-interim managers

provided that people so appointed receive appropriate training about the Council's governance arrangements, rules and operating procedures and are made clearly aware of the extent of any limitations on any delegated authority they may receive from the Chief Officer concerned.

28. **Data Protection Act 2018 and the General Data Protection regulations 2018 - charging for subject access:** power, in consultation with the Director of Corporate Resources, to exercise discretion as to what fee (if any), not exceeding the prescribed maximum, is to be required in respect of the right of access under Article 15 of the General Data Protection regulations 2016 to personal data.
29. **Plant and equipment:** power to dispose of surplus or obsolete vehicles, plant, apparatus, or other equipment or books, in accordance with the Standard Financial Instructions.
Power to manage vehicles, plant, equipment, apparatus, machinery, stock, stores, supplies, materials, furniture, appliances, or other equipment or books, necessary for the provision of services.
30. **Lost and Uncollected Property:** powers to deal with items under Section 41 of the Local Government Miscellaneous Provisions Act 1982 in relation to lost and uncollected property on County Council premises.
31. **Personnel procedures:** power for heads of departments to take decisions relating to employment matters delegated to them from time to time in accordance with the local conditions of service and other personnel policies and procedures. The Chief Executive may determine from time to time those matters which may be exercised by the head of department.
32. **County Council plans, policies and strategies:** To make such consequential amendments to any Council plan, policy or strategy agreed at elected member level including plans or strategies within the Council's Policy Framework, following consultation with the Chief Executive as is considered necessary to reflect changes in legislation and good practice to ensure the plan, policy or strategy remains fit for purpose and is compliant with legal requirements.
33. **Annual Review of Charges:** in accordance with relevant legislation and Standard Financial Instruction 15 to review and set all fees and charges for County Council services and activities at least annually, and to determine detailed pricing for outside work.
34. **General operational:** To have overall responsibility for the operational management of the relevant area of service and for bringing forward such strategic plans and policies, and implementing all decisions, including the allocation of resources within approved estimates, as are necessary to exercise the functions for which the service is responsible.

Part 3

Responsibility for Functions

35. **Implementation of decisions:** To take all necessary actions (including the letting of contracts, undertaking statutory processes and incurring expenditure) to implement decisions of the full county council, the Cabinet and any Regulatory committee/board.
36. **Consultations:** To respond to Government consultations and consultations from other bodies where appropriate, in consultation with the relevant Lead Member or committee/Board Chair.

To undertake all steps required to complete Government Statistical Returns.

37. **Supply of goods and services:** To administer the supply of goods and services to other public authorities and bodies under the Local Authorities (Goods and Services Act) 1970 and all other enabling legislation.

Section E: Panels

1. The Chief Executive has power to determine the size of the Panels set out in paragraph 5 below and to appoint members to those Panels from a Pool of members who have expressed an interest in this role. The Chief Executive will exercise these powers in compliance with any statutory requirements and after consultation with the political groups.
2. The Panels relate either to non-executive functions or to executive functions, as the case may be.
3. Those of the following Panels which relate to an executive function have been given terms of reference which do not involve delegated powers, but rather giving advice. Consequently, where a county councillor who is not a member of the Executive is appointed to such a Panel, that person's membership of the Panel will not have the effect of disqualifying him or her from being a member of an overview and scrutiny committee. The member will, however, be unable to scrutinise any decision in which he or she took part, as a member of the Panel concerned.
4. Any appeal from a decision of a Panel which requires determination by another Panel will be dealt with by a differently constituted Panel, none of whose members was involved in the earlier stages of the matter.
5. The Panels which are appointed by the Chief Executive are:
 - (a) **Adoption Panel:** to advise the adoption agency whether adoption is in the best interests of the child and whether a prospective adopter is suitable in principle and in relation to a particular child.
 - (b) **Approval of Premises Panel (Civil Marriages):** to consider objections and/or appeals in connection with applications for the approval of premises for the performance of civil marriages.

Part 3

Responsibility for Functions

- (c) **Children's Social Care Panel:** to provide strategic oversight at elected member level of children's social care issues, having particular regard to the following areas:-
 - (i) Children in Care;
 - (ii) Child Protection;
 - (iii) Partnership Working.
- (d) **Complaints Panel (School Curriculum and Religious Education):** to consider and advise the Executive upon complaints made by parents or guardians under the provisions of Section 409 of the Education Act 1996 relating to the school curriculum and religious education.
- (e) **Member Conduct Panel:** to assess any allegation that a member or co-opted member of the Council has breached the Council's Code of Conduct and to conduct a determination hearing as appropriate.
- (f) **County Council Employment Panel:** to conduct hearings and make decisions in individual cases in respect of employment arrangements to the extent as may be determined from time to time by conditions of service of staff and local procedures.
- (g) **Appointment Committee (Chief Officer):** as provided for in the Officer Employment Procedure Rules, a Committee to appoint or recommend for appointment a person to act as Chief Officer or Head of Paid Service (Provided that it is not practical to appoint such a Committee at a meeting of the Council).
- (h) **Fostering Panel:** to consider applications from people who wish to be registered as foster carers to ensure that they comply with the National Standards laid down for the fostering of young children, and make recommendations to the Fostering Agency (i.e. Children and Family Services).
- (i) **Manufacture and Storage of Explosives Panel :** to consider, through public hearings, representations about applications to the Health and Safety Executive under the Explosive Regulations 2014 (or such other regulations which may be in force) and to determine whether or not to give the Council's assent to those applications.
- (j) **Disputes Panel:** to consider oral representations from unions and management when negotiations at officer level have failed to reach agreement (following written submissions) and to make recommendations to the Employment Committee or Cabinet, or both, as appropriate.
- (k) **Representations Panel (Independent Providers of adult social care):** to consider representations made from independent sector providers against proposals to remove them from a list of approved service providers

Part 3

Responsibility for Functions

or to suspend them from such a list and to make recommendations to the Director of Adults and Communities as to the appropriate course of action.

- (l) **Guardianship Review Panel:** to consider whether a Guardianship Order made under Section (7) or (37) of the Mental Health Act (1983) is still necessary or if the person concerned should be discharged.

[Note: the County Council Employment Panel is intended to perform the functions of the County Council Appeals Panel, the Teachers Employment Panel and the Teachers' Grievance Panel. Employment issues in relation to teachers in schools are dealt with at school level as a consequence of Local Management of Schools.]

[end of Part 3]