

# Part 3B

## Scheme of delegation to Officers

This scheme of delegation authorises ~~the chief executive and~~ the directors to exercise the functions of Wiltshire Council as set out in this document. It repeals and replaces all previous schemes of delegation.

This scheme is without prejudice to the exercise of the council's functions by the council, the Cabinet, and the council's committees, sub-committees and panels.

For the purposes of this scheme "the directors" means the corporate and service directors whose job title and areas of responsibility are set out in Schedule 1 below.

The ~~chief executive and the~~ directors are empowered to make decisions on behalf of the council in accordance with the following general principles:

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- a. If a function, power or responsibility has not been specifically reserved to the Full Council, a committee, or the Cabinet, the director within whose remit the matter falls is authorised to act;
- b. Full Council, its committees and the Cabinet will make decisions on matters of significant policy. The ~~chief executive and the~~ directors have express authority to take all necessary actions to implement council, committee and cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate;
- c. The ~~chief executive and the~~ directors are empowered to take all operational decisions, within agreed policies, in relation to the services for which they are responsible;
- d. The ~~chief executive and the~~ directors are empowered to take all necessary decisions in cases of emergency;
- e. In relation to all delegated authority conferred on the directors by this scheme, the ~~chief executive~~ head of paid service may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as he or she thinks fit;
- f. Where a director is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the ~~chief executive~~ head of paid service. This nomination should be formally recorded in writing.
- g. Where there is doubt over the responsibility for the exercise of a delegated power, the ~~chief executive~~ head of paid service or their nominee is authorised to act;
- ~~h. Anything delegated to a director is also delegated to the chief executive;~~
- i. These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the council's goals.

For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well being of an individual or that the interests of the council may be compromised.

In deciding whether or not to exercise such delegated powers, the ~~chief executive and the~~ directors should consider whether to consult the appropriate cabinet member(s) or committee

chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.

The ~~chief executive and the~~ directors may authorise officers in their service areas to exercise, on their behalf, powers delegated under this scheme.

All delegations conferred under this scheme must be recorded in writing by ~~the chief executive and the~~ directors ~~as the case may be~~ (including for the avoidance of doubt any delegation under paragraph 4 (e) above). Any decision taken under such authority shall remain their responsibility, and must be taken in their name.

The monitoring officer will maintain a central record of all delegations under this scheme and make this available for public inspection. The ~~chief executive and~~ directors are responsible for recording all delegations under paragraph 8 above in such form as the monitoring officer may prescribe.

In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with all relevant legislation, the council's constitution, including its contract and financial procedures and regulations, and overall council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the council.

Without prejudice to the generality of the foregoing the ~~chief executive and the~~ directors shall have the power:

- a. to take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy within their area of responsibility and within approved budgets. This shall include, but not exhaustively:
  - invitation and acceptance of tenders
  - submission of bids for funding
  - write-off of irrecoverable debts
  - virement (within the budget framework)
  - disposal and acquisition of assets
  - service and placing of any necessary statutory or other notices (other than those expressly reserved to a council, committee or cabinet)
  - after consultation with the solicitor to the council, authorising the institution, defence or appearance in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the council.
- b. to put in place management arrangements, which define the area of responsibility of all officers under their area of responsibility.
- c. in the case of any overspend to notify the chief finance officer in the role of Section 151 officer in accordance with the financial procedure rules and regulations.
- d. to determine staffing arrangements within approved budgets, subject to agreement on grading with the ~~director of resources head of paid service~~ and conformance with council policies.
- e. To take all action to recruit, appoint, develop, manage and reward employees within approved council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.

12. In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage.
  - a. a key decision should be taken in accordance with the relevant requirements;
  - b. the views of the relevant cabinet member(s), committee chairman, area board(s) following the application of the consultation criteria set out in paragraph (c) below;
  - c. consideration of the area boards and delegated decision checklist for officers on the issue of when and how to involve local councillors and Area Boards in decisions about local services;
  - d. the implication of any council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant cabinet members(s) or committee chairman from any affected portfolio and local members, where the issue relates to a specific area, should take place;
  - e. consultation in accordance with the council's consultation strategy and the views emanating from that process;
  - f. the range of available options;
  - g. the staffing, financial and legal implications.
  - h. the assessment of any associated risks in accordance with the council's risk management strategy.
  - i. the involvement of appropriate statutory officers and/or other directors;
  - i. the relevance of any regional or national guidance from other bodies.
  - j. the council's constitution, including the forward work plan, its contract and financial procedures and regulations, all relevant guidance, legislation, codes of practice and protocols.
13. Any councillor may request that decisions taken by officers under delegated powers are scrutinised by the appropriate overview and scrutiny committee.
14. The solicitor to the council is authorised:
  - a. to take any action to implement any decision taken by or on behalf of the council, including the signature and service of statutory and other notices and any document;
  - b. 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 council or in any case where the solicitor to the council considers that such action is necessary to protect the council's interests.
  - c. to instruct counsel, solicitors and other experts in relation to legal proceedings, public inquiries, and other matters involving the council.
  - d. to enter objections to any proposal affecting the county, the council or the inhabitants of the county.
15. For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be

determined by the ~~chief executive~~ head of paid service after consultation with monitoring officer.

16. The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to him for any action, costs, claim or liability incurred by him or her as set out in Schedule 2.

## Part 3B

### Scheme of delegation to Officers

#### Schedule 1

#### Chief executive and directors areas of responsibility

| Post  | Areas of responsibility   |
|---|---|
| <p><del>Chief executive Service Director, Human Resources and Organisational Development</del></p>                  | <ul style="list-style-type: none"> <li>the <del>chief executive- Service Director, Human Resources and Organisational Development</del> will be the head of paid service for the purposes of Section 4 (1) of the Local Government and Housing Act 1989</li> <li><del>as head of paid service he/she will have overall responsibility for running the council within the policies currently adopted by the council and for managing the council to achieve its aims</del></li> <li><del>for that purpose he/she will have authority over all other employees of the council</del></li> <li><del>the chief executive will be the proper officer for all statutory purposes unless otherwise determined by him/her except as provided in this constitution.</del></li> </ul> <p>The sections below will be revised once the allocation of service responsibilities between the three new corporate directors has been agreed.</p> |
| <p><u>Corporate director of resources and relevant service directors within the directorate</u></p>                 | <ul style="list-style-type: none"> <li>participate in the corporate management of the council</li> <li>provide a range of services including legal, democratic and member services, business transformation, customer care, shared services, human resources, organisational development, ICT, financial, procurement and property in support of the council's corporate and service strategies and objectives</li> <li>ensure the council meets its statutory obligations in these areas.</li> </ul>   |
| <p><u>Corporate director for children &amp; education and relevant service directors within the directorate</u></p> | <ul style="list-style-type: none"> <li>participate in the corporate management of the council.</li> <li>direct the children and education department in the provision of educational services and childcare services in support of the council's corporate goals.</li> <li>ensure the council meets its statutory obligations under the Children Acts 1989 and 2004 and Section 75 of the National Health Service Act 2006 and as Local Education Authority</li> <li>acts as the council's statutory director of children's</li> </ul>  |

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|   | <p><u>services under section 18 of the Children Act 2004.</u></p>  |
| <p><u>Corporate director of Neighbourhood and Planning and relevant service directors within the directorate</u></p>  | <ul style="list-style-type: none"> <li>• <u>participate in the corporate management of the council</u></li> <li>• <u>direct the neighbourhood and planning department in the provision of a range of services in support of the council's corporate goals including economy and enterprise, development, housing, neighbourhood, strategic services and waste management services.</u></li> <li>• <u>ensure that the council meets its statutory obligations in these areas.</u></li> </ul>  |
| <p><u>Corporate director of community services and relevant service directors within the directorate</u></p>          | <ul style="list-style-type: none"> <li>• <u>participate in the corporate management of the council</u></li> <li>• <u>direct the community services department in the provision of adult care services, libraries, arts and heritage, community planning and governance and community safety services in support of the council's corporate goals and manage its partnership arrangements with external bodies, particularly the voluntary sector and health service</u></li> <li>• <u>ensure that the council meets its statutory obligations under adult social services and other legislation</u></li> <li>• <u>act as the council's statutory director of adult social services under section 6 of the Local Authorities Social Services Act 1970.</u></li> </ul> |
| <p><u>Corporate director of public health and wellbeing and relevant service directors within the directorate</u></p> | <ul style="list-style-type: none"> <li>• <u>participate in the corporate management of the council</u></li> <li>• <u>direct the public health department to support the council's corporate goals</u></li> <li>• <u>direct the public protection services in the provision of public protection, environmental protection and licensing, commercial and consumer protection, emergency planning and community safety</u></li> <li>• <u>ensure the council meets its responsibility for improving health, assessing the needs of the population and reducing health inequalities</u></li> <li>• <u>direct the corporate research function of the council</u></li> <li>• <u>ensure that the council meets its statutory obligations in these areas.</u></li> </ul>     |

## **Part 3B**

### **Scheme of delegation to officers**

#### **Schedule 2**

#### **Indemnity to staff**

Wiltshire Council will, subject to the exceptions set out below, indemnify its employees and former employees against claims made against them (including costs awarded and reasonable costs incurred) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the council or any motor vehicle insurance policy taken out by the employee) occasioned by any neglect, act, error or omission committed by them in pursuit of their duties as they may from time to time undertake in the course of their employment with the council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the council's consent.

#### **Exceptions**

The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- (a) fraud, dishonesty or a criminal offence on the part of the employee;
- (b) any neglect, error or omission by the employee otherwise than in the course of his duties;
- (c) liability in respect of losses certified by the district auditor as caused by wilful misconduct.

The indemnity will not apply if an employee, without the written authority of the council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the employee had acted with reckless disregard for the consequences.

The indemnity is without prejudice to the right of the council to take or institute disciplinary action against an employee in respect of any neglect, act, error or omission.

