

West Suffolk Council

Section 5 - Scheme of Delegation to Officers

General

1. This section of the Scheme for the responsibility of functions establishes how Officers shall exercise the delegations made to them through the Responsibility for Council Functions and Scheme of Delegation for Executive Functions, and any other delegations provided for in this Scheme of Delegation for Officers.
2. In general, the delegation for Council and Executive functions works so that it is assumed that unless otherwise stated in this Constitution, Officers have the authority to make decisions on the delivery of functions, responsibilities and services of the Council that fall within their scope of responsibility. As this places a broad functional responsibility, the delegations in this Constitution should be taken to assume powers, and duties, within all present and future legislation, and all powers incidental to that legislation.
3. It is deemed that it falls within the scope of an Officer's responsibility where:
 - a) They have been specifically delegated by Council, Cabinet, a Committee or Sub-Committee to make a decision.
 - b) They are authorised as a result of a specific statutory requirement, or they are a statutory postholder.
 - c) It is a stated responsibility within the Officer's job description.
 - d) The Chief Executive, or any other person authorised by them (or sub-delegated) has authorised that they have responsibility as is recorded within a scheme of delegation, to be maintained by the Monitoring Officer.
4. This Scheme of Delegation shall operate in place of any previous delegation. This may be revised or superseded by new delegations that have been properly agreed, but have not been incorporated into the Constitution.
5. Any reference to any specific statutory requirements or local Orders shall incorporate reference to any enactment that replaces or amends the original reference.

Limitations

6. Officers shall not make decisions where:
 - a) The law requires it to be made by Council, a specific Committee or Sub-Committee.
 - b) This Constitution expressly reserves the matter to Council, a Committee, Sub-Committee or any other individual to make.

- c) Council, Committee or Cabinet, or any other decision maker with authority to do so, has determined that they should make the decision.
7. Officers may only exercise delegated powers in accordance with:-
- (a) The Council's Rules of Procedure contained in Part 4 of this Constitution, including the Financial Procedure Rules and Contract Procedure Rules.
 - (b) All plans, policies, schemes or strategies approved by or on behalf of the Council.
 - (c) Any statutory restrictions, guidance or statutory code of practice.
 - (d) The statutory and local requirements in respect of the taking and recording of Key Decisions.
 - (e) The revenue and capital funding for the relevant service as approved by the Council, subject to any variations which are permitted by virtue of the Council's Rules of Procedure; and
 - (f) The Council's Equal Opportunities and other policies, procedures, standards and the Local and National Conditions of Service.

Sub-Delegation

8. All delegations, including any sub-delegations must be approved by the relevant Director for the service area concerned. In matters of urgency, sub-delegations may be approved by a Director or the Chief Executive. All delegations and sub-delegations shall be recorded in a register kept by the Monitoring Officer. Administrative functions ancillary to the exercise of delegated powers are deemed to be carried out in the name of the Officer exercising the function.

Further Provisions

9. It shall always be open to an Officer not to exercise their delegated powers but to refer the matter to the Council, Cabinet, or relevant Committee (as appropriate) for decision.
10. In exercising delegated powers, Officers shall consult other Officers, Members or other parties as appropriate and have regard to any advice given or views provided. In particular, Officers must have regard to any report by the Head of Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the Chief Finance Officer under Section 114 of the Local Government and Housing Act 1988.
11. In exercising delegated powers, Officers shall consider whether the matter is controversial or significant and if so shall as appropriate consult or inform the relevant Portfolio Holder and/or Ward Member(s).

12. For the avoidance of doubt, where the Council, Cabinet or a Committee has settled a policy, plan or budget for a matter or class of matters, each Director or others that they shall designate, shall be empowered to deal with all such matters that are necessary to bring the policy, plan or budget into effect.
13. Where a policy, strategy or plan has been agreed by Council, Cabinet or a Committee, the Director or others that they shall designate, has the authority to make minor amendments to that policy, strategy or plan provided it does not change the nature of the decision reached, and they have undertaken such consultation as they consider appropriate

Delegation in the case of absence or inability to act

13. If the following Officer(s) having delegated authority under the Scheme are absent or otherwise unable to exercise their delegation, and there is no other Officer to whom the authority has been sub-delegated, these provisions shall apply:
 - a) **Chief Executive** (Head of Paid Service) – the powers shall be exercised by a Strategic Director or, if either Strategic Director is unable to act, a Director
 - b) **Strategic Directors** – the powers shall be exercised by the Chief Executive or, if the Chief Executive is unable to act, a Director.
 - c) **Director (Resources and Property)** – the Service Manager (Finance and Performance) shall be responsible for the administration of the financial affairs of the Council pursuant to Section 151 of the Local Government Act 1972 and to act generally as the Council’s Chief Finance Officer under the terms of the Local Government Act 1988.
 - d) **Other Directors** – the powers shall be exercisable by a Strategic Director or the Chief Executive
 - e) **Service Managers** – the powers shall be exercisable by the relevant Director.
 - f) **Officers** – the powers shall be exercisable by a relevant Service Manager or Director.

Urgency Provisions

14. Where, in the opinion of the Chief Executive, by reason of limitation of time or urgency, a decision is required on any matter, after such consultation as they consider necessary (or as is required by the Council’s Budget and Policy Framework Procedure Rules in Part 4 of this Constitution), they shall have power to make a decision provided that any such decision shall be reported to the next meeting of the Cabinet, appropriate Committee or Council unless there is a need for

confidentiality, in which case the reporting of the decision may be deferred until the need for confidentiality expires.

Specific Provisions

15. **Elections** – the Chief Executive shall act as the Returning Officer and Electoral Registration Officer and shall ensure such action is taken to ensure the effective conduct of elections.
16. **Statutory Officers** – except as provided for in this constitution, the Chief Executive shall appoint any other statutory postholders.
17. **Proper Officer** – the Proper Officer for the administration of the Council shall be the Monitoring Officer. The Chief Executive, or other Officers that they designate, shall be the Proper Officer in respect of any other statutory functions.