

Scheme of Delegation to Heads of Service

General Principles

The general principles behind the delegated authority (powers) of Heads of Service are as follows:

- if a function, power or responsibility has not been specifically reserved to the Council, a Committee¹, the Executive (the Cabinet, Cabinet Members, Cabinet Committee) or by virtue of legislation or regulations solely to a statutorily appointed officer, then the Head of Service within whose remit the matter falls is authorised to act. Functions reserved to the Council, a Committee or the Executive are specified in the Council's Constitution;
- in relation to Executive functions, the Head of Service is only authorised to act in relation to decisions which are not “key decisions” as defined by the Council's constitution (except where a Cabinet Member and the Leader of the Council have specifically authorised the Head of Service to do so);
- the Council, its Committees and the Executive will take all decisions on matters of significant policy. Heads of Service have express authority to take all necessary actions to implement Council, Committee and Executive decisions that commit resources, within agreed budgets, as are appropriate;
- heads of service are empowered to take all operational decisions, within agreed budgets, policies and relevant legislation, in relation to the services for which they are responsible;
- under this Scheme, staff on grade 13 and below may continue to take decisions that were delegated to them prior to 1 April 2015, subject to the decision taker being employed in the same service area and to the agreement of the HoS. HoS may revoke and reallocate responsibility for exercising powers to another officer where he/she considers that to be appropriate.
- heads of service should allocate or re-allocate responsibility for exercising powers to other officers including the Chief Executive, Executive Directors and Directors/Deputy Directors on their behalf in the interests of effective corporate management as he/she thinks fit. Records of all such authorisations must be retained and a copy sent to Democratic Services for retention. The 'other' officer(s) to whom a power has been re-allocated cannot further delegate that power to another officer;
- heads of service may refer delegated decisions to the Council, a Committee, the Executive, the Chief Executive, Executive Directors and Directors/Deputy Directors as appropriate for determination in lieu of exercising his/her powers in relation to that matter; or

¹ Committees may agree to delegate functions to officers in which case the powers will be set out in separate schemes eg Pension Fund Committee

in deciding whether or not to exercise a power under this Scheme, Heads of Service should consider whether to consult the appropriate Cabinet Member(s), Committee chair, Chief Executive, Executive Directors or Director/Deputy Director and will have regard to their views;

- where there is doubt over the responsibility for the exercise of a power under these delegation arrangements the Head of Service should consult the Director of Corporate Services whose decision shall be final;
- these delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources and the efficient delivery of services;
- nothing in this Scheme prevents the Council, the Executive or a Committee of the Council from exercising a function in place of an officer; and
- in the event that a Head of Service is unable to discharge his/her specific decision making functions under the Scheme due to absence or due to a declaration of interest by the Head of Service in a particular matter for decision, the Chief Executive, the Executive Director or the Director/Deputy Director whose remit the matter falls may take the decision.
- in the event that a Director is unable to discharge his/her specific decision making functions under the Scheme due to absence or due to a declaration of interest in a particular matter for decision, the Chief Executive and Director of Resources or an Executive Director may take the action.

Limitations on delegations

Heads of Service are expected to liaise with the Chief Executive, Executive Director, Director/Deputy Director, Cabinet Member(s) or Committee chair as appropriate on a regular basis² to ensure that there is no conflict over the exercise of delegated powers and should only use those powers if:

- appropriate resources are in place within the current financial year and the budget framework and financial strategy;
- the Council has the legal power to act (in cases of uncertainty the issue must be referred to the Director of Corporate Services whose opinion shall be conclusive);
- there will be no conflict with any power exercisable by a relevant Cabinet Member, the Cabinet, the Council or other relevant Committee of the Council;
- he/she acts at all times within any policies or guidelines issued from time to time by the Council, the Cabinet or any relevant Committee(s); and

² Cabinet Members may opt to take decisions even where they are otherwise delegated.

Heads of Service **MAY NOT**:

- take “Key Decisions” (unless specifically delegated by a Cabinet Member and the Leader of the Council);
- change approved policies;
- create new policies or make decisions on matters of significant policy;
- take decisions on the withdrawal or modification of public services;
- approve and revise major strategies, schemes, plans, projects, placements and other new initiatives;
- approve schemes and the making of orders which have resulted in the receipt of objections or adverse comments arising from local consultation procedures or the giving of Public Notices of the proposals. In such cases the approval of the scheme/order shall be undertaken by the Executive or Council Committee as appropriate;
- make decisions in relation to significant new powers or duties arising from new legislation;
- make financial commitments that are not within the Council's budget framework and financial strategy;
- provide formal responses to any White Paper, Green Paper or other consultations e.g. nationally significant infrastructure planning, likely to lead to policy changes or have a significant impact upon services or the interests of the County Council;
- take decisions that are likely to be political or controversial;
- take decisions if legislation or regulations require the decision to be taken by a statutory officer;
- make decisions to alter fees, charges and allowances above the rate of inflation;
- award grants (unless specifically delegated by the Leader of the Council or the Cabinet collectively); and
- allocate or re-allocate decisions making responsibilities to non-county council employees or bodies.

- take decisions which are the statutory responsibility of the Director of Public Health. The Director of Public Health may at any time agree in writing that any of his/her statutory functions can be undertaken by another officer where he/she considers that to be appropriate but the officer cannot further delegate that function to another officer. Any such agreement made by the Director of Public Health may at any time be rescinded.

Heads of Service **MUST**:

- obtain advance approval from the Council's Management Team to the payment of honoraria to officers.
- maintain adequate records of decisions taken as specified by the Director of Corporate Services;
- consult the Director of Corporate Services in relation to any matter reserved to him/her (as shown below) and/or in relation to any matter which may have significant legal or financial implications for the Council;
- comply with the Council's policies and protocols including but not limited to³:
 - Employment policies and procedures set out in the personnel code⁴;
 - Procurement Rules;
 - Financial Regulations; and
 - Land and Buildings.

Matters reserved to the Director of Corporate Services:

- the functions of Monitoring Officer;
- the issue of (or response to) any statutory Notice or Order served under any enactment;
- the institution of any legal proceedings in relation to any criminal offence;
- enforcement action to be taken under any enactment;
- the institution of any legal proceedings for the recovery of possession of property and the recovery of debts;
- the defence or settlement (including costs) of any civil claims;
- the issue of any statutory consent or licence;
- the power to enter into any legal agreement that is required to be under seal;
- the affixing and attesting of the Common Seal;
- the power to provide any indemnity on behalf of the Council;
- consult with and instruct counsel, and the procurement of any other external legal advice or representation;

³ Policies and protocols will be held electronically in a central repository

⁴ All appointments must only be made on the Lancashire Pay Spine (or other relevant nationally/locally determined grades) and all posts are subject to job evaluation

Appendix 'B'

- the authorisation of surveillance activities in accordance with the Regulation of Investigatory Powers Act 2000;
- the appointment and removal of company directors;
- the transfer of accountable body status to the County Council; and
- the authorisation of the payment of non-routine expenditure proposed by Council Champions
- the taking of action in accordance with any delegations from the Pension Fund Committee.

The Director of Corporate Services may at any time agree in writing that any of the above functions can be undertaken by another officer where he/she considers that to be appropriate but the officer cannot further delegate that function to another officer. Any such agreement made by the Director of Corporate Services may at any time be rescinded.