

Scheme of Delegation to Officers

Introduction

- 9.37 Lancashire County Council operates an Executive form of governance, under which most decisions are taken by a Leader and Cabinet. These members take decisions on Executive functions. Other decisions (non-Executive decisions) are taken by Full Council, committees and sub-committees. In both cases, decisions can be delegated to officers. The non-Executive functions are listed in legislation, principally The Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and includes decisions by Full Council and committees on planning, licensing, staffing, audit, member conduct and other miscellaneous matters. Anything not in the list is an Executive function.
- 9.38 To support the delivery of the Corporate Strategy, managerial and operational decisions are taken, within a framework of democratic accountability, by officers at the most appropriate level.
- 9.39 This scheme is to be interpreted widely to give effect to this overall purpose by empowering staff to carry out their functions and deliver the Council's services within the Budget and Policy Framework set by the Council, and subject to the guidelines set by the Council, the Cabinet and the Council's management team.

Limitation and Restrictions

- 9.40 Any exercise of delegated powers is subject to the following:
- 9.41 Member Consultation
- a) Officers set out in the scheme are expected to ensure that the relevant councillors, including portfolio holders, committee Chairs and local councillors are informed and consulted when exercising any delegations, whether general delegations set out in this scheme or project specific or temporary delegations given by the Cabinet, Council or committee, as appropriate.
 - b) Before exercising any delegated power, officers must consider whether to consult with the relevant portfolio holder on the exercise of delegated powers or not to exercise delegated powers but to refer the matter to the relevant member or member body to decide.
 - c) Officers should not generally take decisions in areas where there are likely to be political sensitivities, significant opposition from the public, or media (including social media) interest. In any such cases where an officer does take such a decision, the relevant Cabinet Member or committee Chair must be consulted.
 - d) The Leader or any Cabinet Member may at any time, following consultation with the Chief Executive and relevant officer, require a particular issue or any aspect of delegated powers to be referred to the appropriate member body for a decision.
- 9.42 Officer Consultation
- a) Officers are required to ensure that they seek and consider advice of relevant officers, including (but not limited to) Legal, Finance and Commerce, People, Digital, and Estates, in advance of any decision under this scheme being taken.

- b) Officers are required to ensure that the instruction of the Chief Executive (Head of Paid Service), Executive Director of Resources (Chief Financial Officer) and the Director of the Law and Governance (Monitoring Officer), or their representatives, is sought and followed in advance of any decision under this scheme being taken.

9.43 Reservations

- a) The scheme does not delegate to officers:
 - (i) Any matter reserved to Full Council;
 - (ii) Any matter specifically reserved to Full Council, the Cabinet or a committee elsewhere in this Constitution;
 - (iii) Any matter which by law may not be delegated to an officer;
 - (iv) Any Key Decision;
 - (v) Matters which are set aside for a specific officer in law or the Constitution; or
 - (vi) Any matter expressly withdrawn from delegation by the Council, committees, the Leader or Cabinet.

- b) Any exercise of delegated powers is subject to
 - (i) Any statutory restrictions;
 - (ii) The Budget and Policy Framework;
 - (iii) Any provision contained in this Constitution including the Procedure Rules;
 - (iv) Any financial limits set out in the revenue or capital budgets except as set out in the Financial Procedure Rules;
 - (v) Any policy set by the Council or its committees, the Cabinet or the Chief Executive; or
 - (vi) The Code of Conduct for Employees.

9.44 Permissions

- a) This scheme delegates to the Executive Directors and Directors all the powers and duties relevant to those areas of responsibility detailed below that rest with the Council or which have been delegated or granted to the Council, subject to the limitations, restrictions, reservations and requirements for consultation set out above. This includes all powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation.

- b) The Chief Executive, Executive Directors and Directors may allocate or reallocate responsibility for exercising powers delegated to them in this Scheme to other officers of the Council. Records of all such authorisations must be retained in the online Scheme of Delegation database. An officer who has received such a delegation cannot further delegate that power to another officer.

Recording and Publishing Officer Decisions

- 9.45 Certain decisions taken by officers must be recorded and published on the council's central decision recording system. This includes both Executive and non-Executive decisions.

- 9.46 An Executive decision is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

- 9.47 A non-Executive decision is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

9.48 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing.

9.49 However, the following officer decisions must be recorded on the central decision recording system:

- a) A specific decision delegated to an officer by Full Council, Cabinet or a committee;
- b) A procurement decision that requires the involvement of the Procurement Service, in accordance with the Procurement Rules;
- c) A decision, except those relating to individual care packages, to incur expenditure above the threshold of £100,000;
- d) A decision to grant a permission or licence where it also meets the criteria set out at (c), (g) or (h);
- e) A decision involving a minor change to a policy to reflect legislative changes and improve working practices which may impact on the public;
- f) Where Legal Services require evidence of a decision to enable or commence any form of legal action including the signing or sealing of an agreement or any other document;
- g) A decision which impacts significantly in the public realm, such as a property disposal, a Traffic Regulation Order within officer authority, or other significant works to the highway;
- h) A decision which affects the rights of an individual, including actions taken in relation to nuisance or vexatious members of the public to, for example ban them from Council premises or require them to use a single point of contact, or otherwise restrict access to services; or
- i) Any other decision where the Executive Director, Monitoring Officer or Director identifies that a record should be kept.

9.50 All other administrative and operational decisions must be recorded within the service area so as to provide an audit trail.

Areas of Responsibility and Named Officers

9.51 The Management Structure above provides a detailed list of functions. Further details of the contents of each heading are in the list held by the Chief Executive, which they have authority to change and responsibility for keeping up to date.

a) Executive Director of Resources (Chief Financial Officer)

- (i) Finance and Commerce
- (ii) People
- (iii) Law and Governance
- (iv) Strategy and Transformation
- (v) Digital
- (vi) Communications and Public Affairs
- (vii) Pension Fund

b) Executive Director of Adult Services (DAS)

- (i) Adult Social Care
- (ii) Adult Safeguarding and Wellbeing
- (iii) Services for Older People
- (iv) Services for Adults with Disabilities
- (v) In-house Care Provision
- (vi) Statutory powers and functions as the designated Director of Adult Services

c) Executive Director of Children's Services (DCS)

- (i) Children's Social Care
- (ii) Education
- (iii) Libraries, Museums and Archives
- (iv) Children's Safeguarding and Wellbeing
- (v) Statutory powers and functions as the designated Director of Children's Services

d) Executive Director of Growth, Environment, Transport and Health

- (i) Environment and Planning
- (ii) Highways and Transport
- (iii) Growth and Regeneration
- (iv) Public Health and Wellbeing
- (v) Community Services

e) Deputy Executive Director of Adult Services

All the responsibilities of the Executive Director of Adult Services in relation to the running of the services within the Executive Directors' responsibilities.

f) Director of Public Health, Wellbeing and Communities (DPH)

To act as the Statutory Director of Public Health and undertake the relevant duties set out in legislation.

Public Health, health equity, welfare, partnerships, health and safety, resilience and emergency planning, trading standards and scientific services.

g) Director of Environment and Planning

Strategic planning, environment and climate change, and waste management.

h) Director of Highways and Transport

Highways, public and integrated transport, and customer services.

i) Director of Growth and Regeneration

Business growth, estates, skills and employment, and strategic development,

j) Director of Children's Social Care

Quality assurance, inspection, children and family safeguarding, Looked After Children and Children Leaving Care, assessment services, fostering and adoption.

k) Director of Education, Culture and Skills

Early help, inclusion, cultural services and education improvement.

l) Director of Commissioning and Children's Health

Commissioning and children's health services.

m) Director of Strategic and Integrated Commissioning

Strategic and integrated commissioning and contracts.

n) Director of Adult Care and Provider Services

Disability services, older people's care, urgent, acute and prison care.

o) Director of Improvement and Principal Social Worker

Quality and improvement, contracts, safeguarding adults, and business development.

p) Director of Adult Community Social Care

Mental health, learning disabilities and autism, older people and physical disability services.

q) Director of Finance and Commerce

Financial management, commercialisation, procurement and payroll

r) Director of Law and Governance

Legal services, democratic services, internal audit and investigations, and governance including information governance, registrars and coroners.

s) Director of Strategy and Transformation

Asset management, facilities management, business intelligence, corporate strategy and policy, and organisational change and improvement.

t) Director of Digital

ICT strategy, architecture, data, design, and support and engagement.

u) Director of People

People strategy, talent and performance, employee relations and people operations.

9.52 All officers at the level of Director or above have the following powers and financial limits as set out in the following table and subject to the restrictions set out at paragraphs 9.40 to 9.44, including the Key Decision threshold.

POWER OR FUNCTION		Chief Executive	Executive Director	Director
RESERVED TO THE CHIEF EXECUTIVE				
1	To carry out the powers and duties of the Executive Directors and Directors in their absence or in consultation with them.	X		
2	To incur expenditure in the event of a civil emergency.	X		
3	In cases of emergency, to take any decision which could be taken by the Council, the Cabinet or a committee, in consultation with the Leader (emergency to include cases which fall short of a declared emergency but are nevertheless situations in which there will be a risk of significant detriment to the wellbeing of residents if action is not taken).	X		
4	In the period beginning with the fourth day after the County Council Elections and ending on the date of the first Annual Meeting of the new Council, to deal with matters of urgency which cannot await a meeting of Full Council where delay would significantly and materially prejudice the interests of the County Council or the inhabitants of the County, in consultation with the Leaders of any group with a majority of councillors on the council, or in the absence of such a group, with the leaders of all political groups on the council or other councillors as the Chief Executive deems appropriate.	X		
5	To alter the areas of responsibility of the Executive Directors and Directors set out in this Scheme.	X		
RESERVED TO THE EXECUTIVE DIRECTOR OF RESOURCES				
6	To carry out those responsibilities set out as delegated to the Chief Financial Officer in the Financial Rules.		X (EDoR only)	

7	To provide any indemnity on behalf of the Council (in consultation with the Director of Law and Governance). (For the avoidance of doubt, indemnities which are incorporated into any of the Council's standard terms and conditions, or equivalent indemnities incorporated into a third party agreement which have been subject to Legal review, do not require authorisation from the EDoR.)		X (EDoR only)	
8	To approve loans to any recipient, in compliance with Subsidy Control rules.		X (EDoR only)	
9	To agree to write off a debt owed to the Council.		X (EDoR only)	
RESERVED TO THE DIRECTOR OF LAW AND GOVERNANCE				
10	To grant dispensations to councillors in accordance with the Localism Act 2011 with the power to refer any request for a dispensation back to the Conduct Committee.			X (DoLG only)
11	To make consequential amendments to the Constitution to give effect to a lawful decision, as a direct consequence of a change made outside the council (for example a change in legislation), to implement a decision of the Full Council, Cabinet or a committee, and to correct an error or resolve an inconsistency. All such changes to be reported to Council.			X (DoLG only)
12	To interpret the Constitution where the meaning is uncertain or there is a dispute about its meaning.			X (DoLG only)
13	To issue (or respond to) any statutory Notice or Order served under any enactment.			X (DoLG only)
14	To institute any legal proceedings in relation to any criminal offence.			X (DoLG only)
15	To give approval to take enforcement action under any enactment or at common law.			X (DoLG only)

16	To institute any legal proceedings for the recovery of possession of property and the recovery of debts.			X (DoLG only)
17	To defend or settle any legal claim brought by or against the Council. (For the avoidance of doubt, this delegation includes the power to sign settlement agreements on the authority's behalf and the power to settle claims before any formal proceedings have commenced).			X (DoLG only)
18	To issue any statutory consent, licence or permission.			X (DoLG only)
19	To sign contractual documents executed under seal unless the requirement is waived (as agreed by Legal Services and recorded in the Scheme of Delegation database)			X (DoLG only)
20	To give approval to consult with and instruct counsel, and to procure any other external legal advice or representation.			X (DoLG only)
21	To authorise officers to appear on behalf of the Council in the Magistrate's Court (under section 223 of the Local Government Act 1972) and/or the County Court (under section 60 of the County Courts Act 1984).			X (DoLG only)
22	To authorise surveillance activities and accessing communications data in accordance with the Regulation of Investigatory Powers Act 2000.			X (DoLG only)
23	The appointment and removal of company directors.			X (DoLG only)
GENERAL MANAGEMENT POWERS				
24	To approve expenditure up to the key decision threshold relating to the delivery of the functions of the Directorate and / or services for which the officer is responsible.	£2.2m	£2.2m	£1.1m
25	To authorise payments where the Council is under a legal obligation to make the payment e.g. a contractual payment or damages award.	£2.2m	£2.2m	£1.1m

26	To make decisions to discharge the functions and powers of services under their management.	X	X	X
27	In addition to any of their general and/or specific delegated functions set out in this Scheme or in the Constitution, to make all decisions which are calculated to facilitate, or are conducive or incidental to the discharge of such delegated functions.	X	X	X
28	To authorise or delegate to officers to perform any or all of the functions and powers set out in this Scheme. <i>Delegations must be recorded in the online Scheme of Delegation database.</i>	X	X	X
FINANCE				
(All subject to compliance with the Council's Finance Rules and each directorate's Scheme of Financial Delegation)				
29	To carry out the virement of budgets within delegated budgets provided the amount of any individual transfer does not exceed 10% of the gross expenditure or £250,000, whichever is the lower, or in any other case with the consent of the relevant Cabinet Member(s).	£2.2m	£2.2m	£1.1m
30	To approve grants to any recipient, in compliance with Subsidy Control rules and the Procurement Rules.	£2.2m	£2.2m	£1.1m
31	To levy and collect all mandatory statutory fees and charges (including power to increase fees and charges where changed by legislation) in accordance with the Financial Rules.	£2.2m	£2.2m	£1.1m
32	To agree and submit a bid for or enter into contract for goods, services and / or works for third parties or for a council tendered service (i.e. an "in house bid").	£2.2m	£2.2m	£1.1m
33	To agree and submit a bid for a grant or other funding from central or regional government or another third party for the provision of goods, services, works or any other council function.	£2.2m	£2.2m	£1.1m
34	To approve the acceptance of a grant or other funding from central or regional government or other third party for the provision of services, works or any other council function, where either:	£2.2m	£2.2m	£1.1m

	<p>a) The total value is under the Key Decision threshold or;</p> <p>b) Where the Council has no discretion in how the grant is used or applied, including where a mandatory statutory formula applies to its distribution to third parties or its use; or</p> <p>c) Existing Executive decisions or approved policies have determined the application or use of the grant.</p>			
PROCUREMENT AND CONTRACTS				
(All subject to compliance with the Council's Procurement Rules)				
35	Approval to commence a procurement process and the procurement process for the award of any contract.	£2.2m	£2.2m	£1.1m
36	The award of contracts (including the selection of a contractor from a framework).	£2.2m	£2.2m	£1.1m
37	To exercise an option to extend a contract.	£2.2m	£2.2m	£1.1m
38	To agree the variation of a contract.	£2.2m	£2.2m	£1.1m
39	To agree exemptions and waivers as allowed in the Council's Financial and Procurement Rules.	X	X	X
40	<p>To make all other procurement decisions in accordance with the Procurement Rules, including but not limited to:</p> <p>a) To establish a framework;</p> <p>b) to agree to join any external framework contracts or similar agreements;</p> <p>c) To end a procurement process;</p> <p>d) All decisions that are ancillary to other delegated powers.</p>	£2.2m	£2.2m	£1.1m
41	<p>To sign contractual documents not executed under seal (by value of the contract) provided they are in the format provided by Legal Services.</p> <p><i>In accordance with the Procurement Rules the thresholds listed do not apply when the requirement to sign a contract under seal has been waived in agreement with Legal Services.</i></p>	£2.2m	£2.2m	£1.1m
42	<p>To make all contract management decisions including but not limited to:</p> <p>a) Suspending payments;</p>	£2.2m	£2.2m	£1.1m

	<ul style="list-style-type: none"> b) Exercising provisions relating to liquidated damages; c) To refer a matter to arbitration d) Terminating contracts for breach of contract or otherwise in accordance with the terms of the contract. 			
HUMAN RESOURCES AND EMPLOYMENT				
(All subject to compliance with the Council's policies and procedures)				
43	<p>To make all decisions in respect of the employment and management of individual officers under the officer's management, where the power is not delegated elsewhere in this Scheme, in relevant policies or procedures, or reserved for Member decision in the Constitution, including but not limited to:</p> <ul style="list-style-type: none"> a) Recruitment, including probation, acting up and promotion; b) Discipline and capability (including sickness); c) Termination of employment d) Restructuring, redeployment and redundancy e) Pay and remuneration f) Grievances g) Appeals under any procedure h) Applications for any statutory or contractual right or benefit, i) Secondment (section 113 LGA 1972) j) Health & Safety k) All other powers of an employer to ensure the efficient discharge of functions and services excluding the settlement of employment claims which is a matter reserved to the Director of Law and Governance. 	X	X	X
44	<p>To meet all duties relating to the operational health and safety of employees, workers, visitors and others as defined in the Council's Health & Safety Policy.</p>	X	X	X
LEGAL REPRESENTATION AND PROCEEDINGS				
(Legal powers should only be exercised following the receipt of legal advice as set out below)				
45	<p>In respect of the discharge of any Council functions, powers or legal duties for which the officer is responsible, to request Legal Services, under the direction of the Director of Law and Governance, to:</p>	X	X	X

	<p>a) Issue, prosecute, defend, enforce or otherwise participate in any legal proceedings in any court or tribunal;</p> <p>b) Prepare and serve any statutory demand/notice/order or other legal document;</p> <p>c) Prepare any agreement, contract, bond, certificate, deed, guarantee, licence, notice, order and/or other document to protect or advance the Council's interests;</p> <p>d) Provide legal advice and representation on any matter in any way affecting the Council's interests.</p> <p>The appointment of external legal advice can only be commissioned by the Director of Law and Governance.</p>			
POLICY, PERFORMANCE AND RISK				
46	To prepare, approve and amend policies relating to the operation of the services under the officer's management except where these are otherwise reserved to Council, Cabinet or a committee.	X	X	X
47	To make minor amendments to policies approved by Council, Cabinet or a committee, where these are purely technical or administrative in nature.	X	X	X
48	To oversee performance and risk in relation to the services under the officer's management, including the collection, analysis and communication of the information and escalation or de-escalation through the management structure as appropriate.	X	X	X