

# Part 3 Schedule 3 – Delegations to Officers

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# Part 3 Schedule 3 – Delegation to Officers

## 1. Introduction

### 1.1 Definitions

In this Scheme of Delegation:

- (a) **“Chief Officers”** means the Chief Executive, the Deputy Chief Executive (People), the Deputy Chief Executive (Place), the Strategic Directors, Directors and the holders of any other post which may be designated for this purpose.
- (b) **“Other Officer”** means an officer below Director.
- (c) **“Member Body”** means the Cabinet, any Cabinet Committee, Council, any Committee, and any Sub-Committee.
- (d) Should the title or responsibilities of a Chief Officer be altered then references to that particular officer should be taken to refer to the Chief Officer responsible for the function in question.
- (e) Any reference to a specific statute includes any statutory extension or modification or re-enactment of the statute and any regulation, orders or byelaws made under it.

### 1.2 Forms of Delegation

This part of the Constitution sets out the extent to which executive and non-executive functions are delegated to Chief Officers or Other Officers, by any Member Body. Delegation does not prevent the Member Body from discharging the same function. Delegation may take the form of:

- (a) Appointment of Statutory and Proper Officers in Section 2 of this Scheme of Delegation.
- (b) General Delegation to Chief Officers and Other Officers under Section 3 of this Scheme of Delegation.
- (c) Without detracting from the General Delegation, Specific Delegation to Chief Officers under Section 4 of this Scheme of Delegation.
- (d) Special Schemes of Delegation to Chief Officers and Other Officers as set out in Section 5 of this Scheme of Delegation, with regard to the following matters:
  - 5.1 RIPA
  - 5.2 Cemeteries & Crematorium
  - 5.3 Estate Management Services
  - 5.4 Private Sector Housing
  - 5.5 Building Control
  - 5.6 Public Protection (including Regulatory Services & Waste Management)
  - 5.7 Planning
  - 5.8 Children Statutory Social Services Complaints
  - 5.9 Adult Statutory Social Services Complaints
- (e) A decision to delegate a particular matter made by a Member Body.

### **1.3 Principles to be observed when exercising delegated powers under this Scheme of Delegation**

**1.3.1** In exercising General, Specific and Special delegated powers, Chief Officers and Other Officers must:

- (a)** Comply with the law and the Constitution, including in particular the Rules set out in Part 4, having regard to any legal advice from the Strategic Director (Legal & Democratic Services), any financial advice from the Strategic Director (Finance & Resources) and any Human Resources advice from the Strategic Director (Transformation).
- (b)** Act in accordance with any instructions given by the Chief Executive.
- (c)** Consult the relevant Cabinet Member or the Chairman of the relevant Member Body in such circumstances as are considered appropriate and in any case where a Special Scheme of Delegation so requires.
- (d)** Keep an adequate record of the decision, authorisation etc.
- (e)** Report the decision in accordance with the requirements of any relevant Member Body.

**1.3.2** In exercising General, Specific and Special delegated powers, Chief Officers and Other Officers must not:

- (a)** Take a decision that is specifically reserved to any Member Body (unless Standing Order 46 applies);
- (b)** Take a decision or action which:
  - involves the approval of statutory Plans and other Policies;
  - conflicts with Council Policy;
  - involves the approval of Capital and Revenue budgets; or
  - incurs expenditure for which there is no budget.

**1.3.3** Chief Officers who have General, Specific or Special delegated powers may (so far as the law permits) arrange for other members of staff, or contractors for whom they are responsible, to take decisions or actions in their name, but they will remain accountable for them.

**Note:** S.101 of the Local Government Act 1972 prohibits onward delegation from one officer to another. However the law permits administrative decisions to be taken by an officer in a Chief Officer's name, but not fundamental "threshold decisions".

**1.3.4** In the event of the Chief Officer not being available for whatever reason then the next most senior officer of the Department shall be authorised to implement these delegated powers.

**1.3.5** To the extent that the law permits, decisions and actions taken by Chief Officers and Other Officers under delegated powers shall be valid notwithstanding any failure to comply with the requirements of this Scheme of Delegation, and may in addition be ratified by a decision of the relevant Member Body.

**1.3.6** Should the title of any Chief Officer or Other Officer change from that referred to in this Scheme of Delegation, the approved delegated arrangements shall be exercisable by the appropriate Chief Officer or Other Officer as the case may be, responsible for the function in question.

- 1.3.7** Where any new power is given to the Council which does not fall within this Scheme of Delegation, the exercise of that power shall be undertaken by the relevant Chief Officer until such time as the Council has allocated responsibility.
- 1.3.8** A Chief Officer or Other Officer may elect not to exercise their delegated powers in which case it shall be referred to the appropriate Member Body or Chief Officer as the case may be.

## 2. The Statutory & Proper Officers

### 2.1 Statutory Officers

By law, the Council must employ the persons set out below:

Legislation	Function	Post
S.4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
S.5 Local Government and Housing Act 1989	Monitoring Officer	Strategic Director (Legal & Democratic Services)
S.151 LGA 1972	Chief Finance Officer	Strategic Director (Finance & Resources)
S.35 Representation of the People Act 1983	Returning Officer for the Borough Council & Parish Council Elections	Chief Executive
S.8 Representation of the People Act 1983	Electoral Registration Officer	Chief Executive
S.6 (A1) Local Authority Social Services Act 1970	Director of Adult Social Services	Deputy Chief Executive (People)
S.18 Children Act 2004	Director of Children's Services	Deputy Chief Executive (People)
S.72 (1) (a) Weights and Measures Act 1985	Chief Inspector of Weights and Measures	Regulatory Services Officer – Trading Standards
S.17 Traffic Management Act 2004	Traffic Manager	Director of Planning & Transport
S.31 Local Democracy, Economic Development & Construction Act 2009	Scrutiny Officer	Principal Committee Officer (Health Scrutiny Lead)
S.73A National Health Service Act 2006, as amended by the Health & Social Care Act 2012	Director of Public Health	Director of Public Health
GDPR	Data Protection Officer	Knowledge & Information Manager

### 2.2 Proper Officers

The Council employs the following Proper Officers:

Legislation	Function	Proper Officer
<b>Local Government Act 1972</b>		
S.83(1) to (4)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive and Strategic Director (Legal & Democratic Services).
S.84(1)	Receipt of notice of resignation of elected Member	Chief Executive
S.88(2)	Convening a meeting of Council to fill a casual vacancy in the office of Chair	Chief Executive
S.89(1)	Notice of casual vacancy	Chief Executive

<b>Legislation</b>	<b>Function</b>	<b>Proper Officer</b>
S.100 (except 100(D))	Admission of public (including press) to meetings	Chief Executive and Strategic Director (Legal & Democratic Services)
S.100(D)	Compile list of background papers for reports and make copies available for public inspection	All Chief Officers
S.115(2)	Receipt of money due from officers	Strategic Director (Finance & Resources)
S.146(1)(a) & (b)	Declarations and certificates with regard to transfer of securities	Strategic Director (Finance & Resources)
S.191	Officer to whom an application under S.1 of the Ordnance Survey Act 1841 will be sent	Chief Executive
S.225	Deposit of Documents	Chief Executive
S.228(3)	Accounts for inspection by any member of the Council	Strategic Director (Finance & Resources)
S.229(5)	Certification of photographic copies of documents	Strategic Director (Legal & Democratic Services) and 2 Assistant Directors of Legal Services
S.234	Authentication of documents	Strategic Director (Legal & Democratic Services) and 2 Assistant Directors of Legal Services
S.238	Certification of byelaws	Strategic Director (Legal & Democratic Services) and 2 Assistant Directors of Legal Services
S.248	Officer who will keep the Roll of Freeman	Chief Executive
<b>Schedule 12</b>		
Para 4(2)(b)	Signing of summons to Council meetings	Chief Executive
Para 4(3)	Receipt of notice about address to which summons to meeting is to be sent	Chief Executive
<b>Schedule 14</b>		
Para 25	Certification of resolution concerning the Public Health Acts 1875 to 1925	Chief Executive

<b>Legislation</b>	<b>Function</b>	<b>Proper Officer</b>
<b>Local Government Act 1974</b>		
S.30(5)	To give notice that copies of an Ombudsman's report are available	Chief Executive
<b>Local Government (Miscellaneous Provisions Act) 1976</b>		
S.41(1)	The officer who will certify copies of evidence of resolutions and minutes of proceedings	Chief Executive and Strategic Director (Legal & Democratic Services)
<b>Local Authorities Cemeteries Order 1977</b>		
Regulation 10	To sign exclusive rights of burial	Bereavement Services Group Manager
<b>Representations of the People Act 1983</b>		
S.82 and 89	Receipt of election expense declarations and returns and the holding of those documents for public inspection	Chief Executive
<b>Local Elections (Principal Area) Rules 1986</b>		
Rule 46	Retention and public inspection of documents after an election	Chief Executive
<b>Local Elections (Parishes and Communities) Rules 1986</b>		
Rules 46, 47 and 48	Retention and public inspection of documents after an election	Chief Executive
<b>Local Government and Housing Act 1989</b>		
S.2(4)	Recipient of the list of politically restricted posts	Strategic Director (Transformation)
<b>Local Government (Committees and Political Groups) Regulations 1990</b>		
Regulations 8 - 14	For the purposes of the composition of committees and nominations to political Groups	Chief Executive
<b>Local Authorities (Members' Interests) Regulations 1992</b>		
Regulations 3, 4 5 and 6	Functions relating to keeping of a record of Members' interests	Strategic Director (Legal & Democratic Services)
<b>Local Authorities (Standing Orders) (England) Regulations 2001</b>		
Schedule 1 Part 2	Notification of appointment or dismissal of officers	Chief Executive save where post of Chief Executive is involved, where it shall be Strategic Director (Legal & Democratic Services)
<b>The Local Authorities (Executive Arrangements) Access to Information (England) Regulations 2000</b>		
Regulation 3	Recording of Executive decisions made at meetings of the Executive Board	Strategic Director (Legal & Democratic Services)



<b>Legislation</b>	<b>Function</b>	<b>Proper Officer</b>
<i>Regulation 5</i>	Inspection of documents following Executive decisions	Strategic Director (Legal & Democratic Services)
<i>Regulation 6</i>	Inspection of background papers	Strategic Director (Legal & Democratic Services)
<i>Regulation 9</i>	Individual Executive decisions	Strategic Director (Legal & Democratic Services)
<i>Regulation 11</i>	Access to agenda and connected reports	Strategic Director (Legal & Democratic Services)
<i>Regulation 12</i>	Publicity in connection with key decisions	Strategic Director (Legal & Democratic Services)
<i>Regulation 15</i>	General exception relating to the Forward Plan	Strategic Director (Legal & Democratic Services)
<i>Regulation 17</i>	Councillors' rights of access to documents	Strategic Director (Legal & Democratic Services)
<i>Regulation 21</i>	Confidential / exempt information and exclusion of public from meetings	Strategic Director (Legal & Democratic Services)
<b>Housing Act 1985</b>		
S.606	Submission of reports on particular houses or areas by the Proper Officer	Deputy Chief Executive (People)
<b>Building Act 1984</b>		
S.93	Authentication of documents	Group Manager Planning and Building Control
<b>Food Safety Act 1990</b>		
S.49(3)(a)	Authentication of documents	Director of Public Protection
<b>Public Health Act 1936</b>		
S.85(2)	To service notice requiring remedial action where there are verminous persons or articles	Director of Public Protection
<b>Public Health Act 1961</b>		
S.37	Control of any verminous article	Director of Public Protection
<b>Public Health (Control of Disease) Act 1984</b>		
S.45 (A-T) (& regulations made thereunder)	Undertake activities to protect public health	Director of Public Protection
S.48	Certifying that the retention of a body in a building would endanger health	Director of Public Protection
S.59	Authentication of documents relating got matters within their responsibility	Director of Public Protection
S.61-62	Power to enter Premises	Director of Public Protection
<b>National Assistance Act 1948</b>		

<b>Legislation</b>	<b>Function</b>	<b>Proper Officer</b>
S.47	Removal to suitable premises of people in need of care and attention	Director of Public Health
<b>National Assistance (Amendment) Act 1951</b>		
S.1	Certification of the need for immediate action	Deputy Chief Executive (People)
<b>National Health Service Act 2006, as amended by the Health &amp; Social Care Act 2012</b>		
S.73A(1)(a)	The exercise by the Council of its functions under Sections 2B, 111 or 249 or Schedule 1	Director of Public Health
S.73A(1)(b)	The exercise by the Council of its functions by virtue of Section 6C(1) or (3)	Director of Public Health
S.73A(1)(c)	Anything done by the Council in pursuance of arrangements under Section 7A	Director of Public Health
S.73A(1)(d)	The exercise by the Council of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health	Director of Public Health
S.73A(1)(e)	The functions of the Council under Section 325 of the Criminal Justice Act 2003	Director of Public Health
S.73A(1)(f)	Such other functions relating to Public Health as may be prescribed	Director of Public Health

### 3. General Delegations to Chief Officers & Other Officers

3.1 **Subject to 1.3** Chief Officers are authorised to take decisions and to act:

- (a) To discharge the functions allocated to them or dealt with by them or their staff.
- (b) In all matters in which they have managerial or professional authority unless there is a legal or professional impediment.
- (c) Without qualification, in accordance with Standing Order 46 of the Council Procedure Rules.

3.2 **Subject to 1.3** Chief Officers may exercise discretion and use whatever means they consider appropriate to discharge those functions and implement those decisions, and to exercise their General, Specific and Special Delegated Powers, including:

- (a) Incurring expenditure, collecting income and writing off debts.
- (b) Deploying land and premises and all other resources within their control.
- (c) Placing contracts and procuring other resources within or outside the Council.
- (d) Settling claims and disputes.
- (e) Making statutory determinations and orders, granting and refusing permissions, licences and consents, and issuing and serving statutory notices, licences, permits, consents and certificates of all kinds.
- (f) Signing and authenticating documents of all kinds.
- (g) To make representations in respect of applications under the Licensing Act 2003 and Gambling Act 2005.
- (h) To appoint “authorised officers / persons”, “approved officers / persons”, “inspectors “etc to carry out duties and exercise powers within that individual’s area of responsibility, including but not limited to:
  - (i) Entering and inspecting premises; and
  - (ii) Taking action under the Special Schemes of Delegation in Section 5 below.

**Note:** Chief Officers must keep lists of who they have authorised, for what purpose and what limitations apply. They must also issue authorisation cards as necessary.

- (i) To authorise the Strategic Director (Legal & Democratic Services) to issue and pursue legal proceedings and serve notices in respect of functions delegated to them.
- (j) To serve statutory notices, issue cautions and take enforcement action (including but not limited to the issue of fixed penalty notices).
- (k) To set fees and charges in their areas of responsibility (save for parking charges) including making in year changes subject to:
  - Compliance with the Council’s Fees & Charges Policy;
  - Compliance with all legal requirements relating to the setting of statutory and discretionary fees and charges, including undertaking any necessary public consultation and assessing the equality impacts; and
  - Prior consultation with the Council’s Strategic Director (Finance & Resources) and the relevant Cabinet Member
- (l) Submitting a planning application for development linked to their area of responsibility.

### **3.3 Human Resources**

#### **3.3.1 Chief Officers**

**Subject to 1.3** and subject to the Officer Employment Procedure Rules in **Part 4(h)**, the delegated powers of Chief Officers include:

- (a)** Power to determine staffing arrangements and structures within approved budgets subject to:
  - (i)** Agreement on grading with the Strategic Director (Transformation);
  - (ii)** Conformance with approved Council policies and procedures; and
  - (iii)** Chief Executive approval for structural changes establishing or affecting more than five posts.
- (b)** Power to recruit, appoint, agree conditions of service, appraise, develop, manage and reward employees subject to compliance with Council policies and procedures.
- (c)** Power to deal with voluntary severance, early retirement, redundancy and redeployment issues subject to compliance with Council policies and procedures.
- (d)** Power to suspend, dismiss or take other disciplinary action and to deal with grievance, capability and sickness matters in accordance with the Council's policies and procedures.

#### **3.3.2 Other Officers**

**Subject to 1.3** Other Officers are authorised to deal with Human Resources matters in accordance with the provisions of the Council's various Human Resources policies.

### **3.4 Contracts**

Chief Officers and Other Officers may enter into contracts, make payments, write off debts etc in accordance with the financial levels of authority set out in Contracts Procedure Rules in **Part 4(g)** and Financial Procedure Rules in **Part 4(f)**.

## 4. Specific Delegation to Chief Officers

Subject to 1.3 Chief Officers are given the following delegated powers:

### 4.1 The Chief Executive

- Generally to take action in relation to the overall corporate management and operational responsibilities of the Council.
- To exercise all the powers delegated to other Chief Officers unless there is a legal or professional impediment.
- To exercise the functions of Head of the Paid Service as set out in Article 12 of **Part 2** of the Constitution.
- To make appointments to statutory panels.
- To appoint a Deputy Electoral Registration Officer.
- In the Chief Executive's role as Returning Officer to determine variations to polling places that may be necessary for a particular election.

**Note:** A Deputy Chief Executive may exercise the powers delegated to the Chief Executive, when the Chief Executive is not available for any reason.

### 4.2 The Chief Executive and / or the Strategic Director (Legal & Democratic Services)

- To deal with applications made by the Police under Part 4 of the Anti-Social Behaviour Act 2003 seeking the Council's consent to the making of Dispersal Orders
- To authorise officers of the Council to appear before the Magistrates' Court or the County Court.
- To institute, defend, conduct and settle civil or criminal legal proceedings including employment related claims.
- To sign or authenticate documents, including contracts, property transactions, statutory notices, licences, permits, consents and certificates of registration of all kinds.
- To discharge the Council's functions in relation to access to information and Freedom of Information (including acting as Qualified Person).
- To authorise Councillors attendance on courses and seminars and payment of out of the Borough travel & subsistence allowances.
- To carry out all the powers and duties under the Local Land Charges legislation.
- To deal with Complaints against Councillors and Co-opted Members pursuant to the Complaints against Members Rules in **Part 4(i)** including in particular:
  - to receive complaints of failure to comply with the Members' Code of Conduct in **Part 5(a)**;
  - to decide whether a complaint requires investigation (in consultation with the Independent Person);
  - to close a case where an investigation finds no evidence of a breach of the Code;
  - to resolve complaints informally wherever possible; although where this is after an investigation there should be consultation with the Independent Person; and
  - To appoint members of the Hearing Sub-Committee and its chair after consultation with the chair of the Standards Committee.
- To maintain Registers of Members' Interests for all Councillors and Co-opted Members (including Leigh-on-Sea Town Councillors).
- The Strategic Director (Legal & Democratic Services) shall exercise the following functions :-
  - Monitoring Officer as set out in Article 12 of **Part 2** of the Constitution (Note: this role cannot be discharged by the Chief Executive)
  - Senior Responsible Officer for RIPA
  - Senior Information Risk Owner (SIRO) re Data Protection

### 4.3 The Chief Executive and / or Strategic Director (Transformation)

- To make, revoke or amend Human Resources Policies, in consultation with the Chief Executive and after consultation with the Trade Unions if appropriate, save that where the Chief Executive determines that the issues involved are significant (including but not limited to changes to disciplinary and grievance procedures), then the decision shall be for Cabinet.
- To agree gradings of new posts with the appropriate Chief Officer.
- To deal with Council communications and press releases.
- To pay salaries, wages, performance related pay, honoraria and other gratuities (the Strategic Director (Finance & Resources) also has this delegated power).
- To deal with organisational transformation, save that strategic decisions shall be a matter for Cabinet.
- To deal with all matters relating to the Customer Service Centre.
- To discharge the Council's functions (including but not limited to determining all consents, permissions and licences and taking enforcement action) in relation to:
  - Cemeteries and crematoria
  - The Registration of Births, Deaths and Marriages, and civil ceremonies, including premises for Civil marriages
  - Transport services
- See also section 5.2 for Special Scheme of Delegation for Cemeteries and Crematorium

### 4.4 The Chief Executive and / or the Strategic Director (Finance & Resources)

- To take all steps that are considered appropriate for the administration of the financial affairs of the Council including:
  - To pay salaries, wages, performance related pay, honoraria and other gratuities. (The Strategic Director (Transformation) also has this delegated power.)
  - To borrow and invest.
  - To trade in Landfill allowances.
  - To deal with all insurance matters, including the settlement of insurance claims.
  - To deal with all pension matters including the making of pension determinations.
  - To determine fraud and corruption policies.
  - Corporate procurement.
- To deal with all Revenues and Benefits matters including:
  - To deal with all matters and to exercise all discretions relating to the determination, administration and collection of non-domestic rates and Council Tax which are not reserved to a Member Body.
  - To take legal proceedings for the recovery of General Rate arrears, Non Domestic Rate arrears, Community Charge arrears, Community Charge penalties and Council Tax arrears, and all other outstanding debts.
  - To authorise officers to represent the Council in such proceedings and in all other proceedings connected with local tax recovery.
  - To discharge the Council's functions relating to Council Tax and Housing Benefit, including measures to combat fraud.
- The Strategic Director (Finance & Resources) shall exercise the functions of the S.151 Chief Finance Officer as set out in Article 12 of **Part 2** of the Constitution (Note: This role cannot be discharged by the Chief Executive unless they are a qualified accountant)
- To carry out the following Estate Management functions in relation to Council land or property assets including those assets held by the Council as trustee:
  - To deal with all Estate Management functions including but not limited to settling the terms of any lease renewals, rent reviews, surrender and renewals, lease extensions, supplemental leases, lease re-gearing opportunities, landlord's consents, access agreements, dilapidations, charges, variations and the service of notices, commissioning surveys, forfeiture and enforcement action.

- To settle the terms of any new leases, or supplemental leases with an annual rent up to and including £75,000 p.a.
- To deal with disposals, including easements or other interests in land for best consideration with a capital value or consideration up to and including £250,000.
- To deal with acquisitions on value for money terms with a capital value or consideration up to and including £500,000.
- To deal with any disposals at under-value where the element of undervalue has a premium value or consideration of less than £100,000.
- To deal with any lettings at under value where the term does not exceed 7 years or the element of under value on the rent is less than £25,000 p.a.
- To consider objections and in the case of there being less than 5 non-substantive objections, to authorise the disposal of open space in accordance with the process set out in the Corporate Asset Management Strategy.
- To manage office accommodation in the Civic Centre
- The authority to set up, oversee vary and terminate estate management arrangements as required, including where necessary establishing management companies and to deal with the administration and authorisation of company arrangements for these and the distribution of shares as required.

**Note:** Reference to leases includes licences, tenancies at will and any other occupational agreements.

- See also Section 5.3 and 5.10 for Special Schemes of Delegation for Estate Management Services and Assets of Community Value respectively.

#### **4.5 The Deputy Chief Executive (People) and / or, the Director of Children's Services**

- To act as the Director of Children's Services appointed under the Children Act 2004: To discharge all responsibilities and duties relating to children conferred under that Act or previously discharged by the Director of Social Services and to discharge all the functions of the Council as a Children's Services Authority except for:
  - Approval of statutory plans for any aspect of children's services.
  - Establishment and review of the statutory complaints procedure under S23A-S23B of the Children Act 1989.
- See also Section 5.8 for Special Scheme of Delegation for Children Statutory Social Services Complaints.

#### **4.6 The Deputy Chief Executive (People) and / or the Director of Learning**

- To discharge the Council's functions relating to education and learning (including those previously discharged by the statutory Chief Education Officer) except for:-
  - Approval of the financial scheme of delegation and Local Management of Schools formula.
  - Statutory notices and prior consultation relating to school closures.
  - Fixing school term and holiday dates
  - School Admission Policy
  - Approval of statutory plans for any aspects of education and learning
- To make / propose appointments to School Governing Bodies and the Southend Adult Community College and appointments of additional Governors to schools in special measure, in consultation with all members of the Appointments and Disciplinary

Committee. (If any member of the said Committee objects the matter shall go to the Committee for determination.)

#### **4.7 The Deputy Chief Executive (People) and / or the Director of Adult Services & Housing**

- To act as the Director of Adult Services and to discharge all responsibilities and duties relating to that role.
- To take all necessary action, to ensure that the Council's powers and duties are properly and effectively discharged in adult protection and adult care cases.
- To appoint Approved Mental Health Professionals under the Mental Health Act 1983.
- To discharge the Council's functions (including but not limited to determining all consents, permissions and licences and taking enforcement action) in relation to:
  - Social care and health
  - Social services for adults
  - Mental health
  - Community development
- To act as "the Responsible Person" (on behalf of the Chief Executive and Town Clerk) pursuant to the Local Authority Social Services and NHS Complaints (England) Regulations 2009 re Adult Statutory Social Services complaints.
- To act as a Receiver under the terms of an order issued by the Court of Protection.
- See also Section 5.9 for Special Scheme of Delegation for Adult Statutory Social Services Complaints.

#### **Housing**

- To discharge the Council's housing functions (including but not limited to determining all consents, permissions and licences and taking enforcement action) in relation to:
  - The management and administration of Council dwellings, subject to the management agreement with South Essex Homes.
  - Providing housing assistance, including but not limited to the provision of advice, and homelessness decisions.
  - The allocation of housing.
  - Taking any steps open to the Council in relation to privately owned dwellings, including but not limited to enforcing standards dealing with grants and dealing with energy performance certificate / notices.
  - All the enforcement powers under the Smoke and Carbon Monoxide (England) Regulations 2015
- See also Section 5.4 for Special Scheme of Delegation for Private Sector Housing.

#### **4.8 The Deputy Chief Executive (People) and / or the Director of Strategy & Commissioning**

- To discharge the Council's functions relating to:-
  - Corporate commissioning including determining grant applications in accordance with the Council's Commissioning Framework
  - Commissioning for Public Health
  - Joint commissioning, including with the CCG.

#### **4.9 The Deputy Chief Executive (People) and/or the Director of Public Health**

- To discharge the Council's functions in relation to:
  - Developing and maintaining the Joint Strategic Needs Assessment for the Council.
  - Supporting and advising the Health & Well-being Board for Southend.
  - Developing and maintaining a Public Health Plan for the Council.
  - Meeting the Council's obligations for liaison with and support to Public Health England
  - Providing Public Health leadership, advice and information to the public as required by the Health Act 2006.



- Preparing and publishing an annual report on Public Health in Southend.
  - Discharging the responsibility for co-operation and joint working in relation to public health within Southend on behalf of the Council.
  - Discharging the responsibilities for health and social care research and information in relation to public health and well being.
  - Overseeing the responsibilities of the Council for liaison with voluntary sector social care and health organisations.
  - Protecting the health of the population for infectious diseases and environmental hazards
  - Emergency preparedness
- The Director of Public Health shall act as the statutory officer under section 73A of the National Health Service Act 2006, as amended by the Health & Social Care Act 2012, and in particular will act as Lead for the delivery of public health services within Southend. (Note: This role cannot be discharged by the Deputy Chief Executive (People) unless they meet the professional requirements specified in the Department of Health Guidance)

#### **4.10 The Deputy Chief Executive (Place) and / or the Director of Planning & Transport**

- To discharge the Council's functions (including but not limited to determining all consents, permissions and licences, and taking enforcement action) in relation to:
  - Town and Country Planning (subject to the Special Scheme of Delegation for Planning in Section 5)
  - Building control
  - Dangerous buildings
  - High hedges
  - Highways and footpaths (including adoption and closure and S.6 of the Essex Act re verges)
  - On and off street parking
  - Highways maintenance and lighting
  - Traffic management, including Emergency Traffic Regulation Orders
  - Naming and numbering of streets
- See also Section 5.7 for Special Scheme of Delegation for Planning and Building Control.

#### **4.11 The Deputy Chief Executive (Place) and / or the Director of Public Protection**

- To discharge the Council's functions (including but not limited to determining all consents, permissions and licences, and taking enforcement action) in relation to:
  - (a) Regulatory Services, which include:
    - Environmental Health, environmental protection, public health, health and safety in premises, clean neighbourhoods and public protection
    - Trading standards and consumer protection
    - Market and street trading
    - All Licensing matters not reserved by the law to the Licensing Committee or any Licensing Sub-Committee
  - (b) Community safety and the reduction of crime and disorder (including CCTV)
  - (c) Waste management and Environmental Care which include:
    - Waste collection
    - Waste treatment / disposal
    - Street cleansing
    - Clean Neighbourhoods
    - Untidy sites (S 215 Town & Country Planning Act 1990)
    - Litter on land

- Abandoned vehicles
- Emergency services operational (salting and snow removal from public highways, debris / unsafe surface, oil removal from beaches)

**(d) Maintenance and servicing of public toilets**

- See also Section 5.6 for Special Scheme of Delegation for Public Protection (including Regulatory Services & Waste Management).

#### **4.12 The Deputy Chief Executive (Place) and / or the Director of Regeneration & Business Development**

- To discharge the Council's functions in relation to:
  - The management and promotion of regeneration activity
  - Economic and Business Development
  - Town Centre management

#### **4.13 The Deputy Chief Executive (Place) and / or the Director of Culture, Tourism & Delivery**

- To discharge the Council's functions (including but not limited to determining all consents, permissions and licences, and taking enforcement action) in relation to:
  - Parks, gardens and open spaces
  - Dangerous trees
  - Museums, galleries and the arts
  - Sports provision and development
  - Libraries
  - Leisure facilities and events, including indoor and outdoor venues
  - The Pier and Foreshore (including functions relating to boat and boatmen's Licences, cockle fishing licences, bait digging licences)
  - Tourism
  - Facilities Management (hard and soft)

#### **4.14 The Deputy Chief Executive (Place) and/or the Director of Digital Futures**

- To discharge the Council's functions in relation to:
  - ICT support and development for the Council
  - Digital futures for the Borough

#### **4.15 Delegations to Executive Director (Neighbourhoods & the Environment), and/or relevant Head of Traffic & Highways**

To discharge all of the Council's functions in relation to highway, traffic and parking matters (including the management and enforcement of utility works) with the exception of the following:

- Approval of statutory plans and policy matters (which are generally for Cabinet)
- The agreement of major highway/transport schemes (which are generally for Cabinet)
- Those elements dealing with Traffic Regulation Orders (TROs) that fall with the jurisdiction or remit of the Traffic Regulations Working Party and Cabinet Committee or the new panel to determine appeals on Domestic Vehicle Crossings

That, without prejudice to the delegations set out above (including but not limited to determining all consents, permissions and licences, and taking enforcement action) to discharge the following functions:

- The statutory advertisement of TROs and to confirm TROs where no representations are received or the majority of responses to the Statutory Notice are not against the proposals.

- The implementations of Emergency TROs where required
- The consolidation of existing amendment TROs into a single new Order; the revocation of existing TROs and re-enactment without material change to the measures into a new TRO
- be responsible for enforcement action and all highways related matters on behalf of the Council in relation to traffic & highways.
- be responsible for the Council's functions under the New Roads and Street Works Act 1991
- To either act as the Traffic Manager for purposes of Section 17 (2) of the Traffic Manager Act 2004 or to appoint a person to exercise the Network Management Duty under Section 16 of the Act.
- the functions of the Council under the Highways Act 1980
- the functions of the Council as road traffic authority including its powers under the Road Traffic Regulation Act 1984.
- the Council's functions under New Roads and Street Works Act 1991.
- To sign the official traffic regulation orders (sealing is not required.)
- To be responsible for the management of the Council's highways contracts and the delivery of an annual programme of works agreed in consultation with the relevant Cabinet Member.

## **5. Special Schemes of Delegation**

### **5.1 Regulation of Investigatory Powers Act 2000**

- 5.1.1** All Chief Officers, the Head of Regulatory Services, the Head of Internal Audit and the Head of Community Safety are Authorising Officers for directed surveillance or CHIS activity under the Regulation of Investigatory Powers Act 2000 provided they have received appropriate training and comply with the Council's RIPA Policies & Procedures. (Note: Directed Surveillance and CHIS activity must also be authorised by the Magistrates' Court as required by the Protection of Freedoms Act 2012.)
- 5.1.2** Any Council Officer who has received appropriate training may carry out directed surveillance authorised under 5.1.1. Such Officer shall be known as an "Investigating Officer" and must comply with the Council's RIPA Policies and Procedures.
- 5.1.3** All Chief Officers, the Head of Regulatory Services and the Head of Internal Audit shall each act as Designated Person to submit applications to the National Anti-Fraud Network (NAFN) and to the Magistrates Court for Communications Data, provided they have received appropriate training and comply with the Council's RIPA Policies & Procedures.

### **5.2 Cemeteries & Crematorium**

The Bereavement Services Group Manager is authorised to enforce and execute the duties and functions of the Council in respect of the following:

- (i) To grant exclusive rights of burial and rights to erect monuments and memorials.
- (ii) To enter into undertakings for the maintenance of graves.
- (iii) In appropriate circumstances, to arrange funerals at the Council's expense in accordance with Section 46 of the Public Health (Control of Disease) Act 1984.

Under the direction of the Bereavement Services Group Manager; the Crematorium Manager; Office Manager and Administration Officer are appointed to authorise cremations under the Cremation Act 1902, the Cremation Regulations 1930-1979 and the Cremation (Amendment) Regulations 1988.

### **5.3 Estate Management Service**

The Head of Corporate Property & Asset Management may exercise all the powers of the Chief Executive and Strategic Director (Finance & Resources) in respect of Estate Management Services as defined in 4.4 above subject to the limits set out in the Financial Procedure Rules.

### **5.4 Private Sector Housing**

The following Officers may serve notices and take appropriate action (including but not limited to works in default) under Private Sector Housing legislation within their area of responsibility, subject to being authorised in that regard by their Chief Officer pursuant to 3.2(h):

- Private Sector Housing Manager
- Strategy & Planning Manager, Private Sector Housing
- Private Sector Enforcement Officers

### **5.5 Building Control**

The Group Manager (Planning & Building Control) may exercise all the powers of Deputy Chief Executive (Place) and the Director of Planning & Transport in respect of Building Control and Dangerous Buildings.

## 5.6 Public Protection (including Regulatory Services, Waste Management & Environmental Care and Community Safety)

- (a) The Group Managers for Regulatory Services, Waste Management & Environmental Care and Community Safety may exercise all the powers of the Deputy Chief Executive (Place) and the Director of Public Protection in respect of functions within their remit as defined in 4.11 above.
- (b) The following Officers may serve notices and take appropriate action (including but not limited to works in default) under legislation within their area of responsibility, subject to being authorised in that regard by their Chief Officer pursuant to 3.2(h):
- Regulatory Services Manager(s)
  - Regulatory Services Officer(s)
  - Service Manager, Waste Management
  - Waste and Contracts Officer(s)
  - Environmental Care Co-ordinator(s)
  - Environmental Care Officer(s)
  - Enforcement Officer(s)
  - Animal Warden
  - Sustainability Officer
  - CCTV Team Leader
  - Community Safety Manager
  - Community Safety Officers
  - Any other duly appointed and trained contracted staff

## 5.7 Planning

5.7.1 Subject to the **Committee Referral Procedure** in 5.7.4 below, approval or refusal of all applications made under The Town and Country Planning Act 1990, The Planning (Listed Buildings and Conservation Areas) Act 1990 and The Planning (Hazardous Substances) Act 1990 and associated Regulations and Orders is delegated to each of the following officers ("**the Relevant Officer(s)**"):

- The Deputy Chief Executive (Place);
- The Director of Planning and Transport; and
- The Group Manager (Planning and Building Control)

provided that:

- (a) In the case of an approval the proposals do not conflict materially with a policy of the current Development Plan;
- (b) In the case of refusals the proposals are materially in conflict with a policy of the current Development Plan;
- (c) Consultations, neighbour notification and publicity have been carried out in accordance with statutory requirements and Council Policies;
- (d) The decision would not conflict with a material planning objection in principle from a statutory consultee received within the statutory consultation period;
- (e) In all cases the Relevant Officer considers it prudent to exercise delegated authority, failing which they shall report the application to the Development Control Committee for decision;
- (f) Lists of delegated decisions shall be circulated to members of the Development Control Committee, provided at meetings of the Committee and made available for inspection in the Department;
- (g) All applications submitted by or on behalf of the Council, any member of the Council or any serving officer of the Council (other than applications submitted by or on behalf of the Council that do not involve "significant development" as defined at (h) below and to which there is no objection from a neighbour or statutory consultee) shall be submitted to the Development Control Committee for decision; and

- (h) In the case of applications that involve “significant development” (as defined below) the relevant officer shall consult with the Chair of the Development Control Committee (or the Vice Chair in the Chair’s absence) before making a determination.

For the purposes of this paragraph “significant development” means any scheme involving:

- (i) 10 dwellings or more; or
- (ii) 1000 sq metres or more of floor space; or
- (iii) A development site with an area of over 0.5 hectares.

**5.7.2** Subject to the limitations set out in 5.7.1 above the approval or refusal of the following matters is delegated to the Planning Team Leaders in the Development Control Group:

- (a) “Householder” applications (as defined for the purposes of Form PS2 in the Government’s planning statistics);
- (b) Advertising consents;
- (c) Applications for prior approval for larger home extensions;
- (d) Applications for works to trees subject to TPO’s or in conservations areas;
- (e) Non-material amendments to planning permissions; and
- (f) Details reserved by condition.

Provided also that:

- (a) In the case of an approval, not more than 5 different households have submitted material planning objections and the objections received have been taken into account in the delegated report; and
- (b) The application is not one where the case officer is the Planning Team Leader.

**5.7.3** Subject to the limitations set out in 5.7.1 above, the approval or refusal of applications for “details reserved by condition” is also delegated to Senior Planners in the Development Control Group, providing the Senior Planner is not the case officer.

**5.7.4** In all cases the powers delegated under 5.7.1 – 5.7.3 above are subject to the following **Committee Referral Procedure** by Councillors:

- (a) Each Councillor shall receive a Weekly List of applications registered.
- (b) If, within 21 days of the “Week Ending Date” specified at the top of the Weekly List, a letter in hard copy signed by one Councillor is received by the Deputy Chief Executive (Place) or the Director of Planning and Transport or an e-mail is received from the Councillor at [planningregistrationteam@southend.gov.uk](mailto:planningregistrationteam@southend.gov.uk) requesting the application be determined by the Development Control Committee then the application shall be referred to the Development Control Committee.

PROVIDED THAT this Committee Referral Procedure shall not apply to applications for Lawful Development Certificates or applications for prior approval where there is no planning judgement to be exercised.

**5.7.5** Authority is delegated to the Relevant Officers:

- (a) To issue Planning Contravention Notices under Section 171C of the Town and Country Planning Act 1990;

- (b)** To determine the selection and detailed wording of conditions, reasons for conditions and reasons for refusal on delegated decisions; the detailed wording of conditions, reasons for conditions and reasons for refusal on decisions made by the Development Control Committee; and the detailed wording of enforcement and stop notices authorised by the Development Control Committee;
- (c)** To deal with minor material and non-material amendments to schemes already approved, submitted informally or by application subject to such amendments not being materially in conflict with the provisions of the current Development Plan;
- (d)** To comment on proposals to carry out works to or to fell trees in conservation areas and to deal with applications to carry out works to or to fell preserved trees, including requiring replacement trees where appropriate;
- (e)** To grant or refuse Certificates of Lawful Use and Development under Sections 191 and 192 of the Town and Country Planning Act 1990;
- (f)** To deal with applications for determination as to the need for prior consent for demolition and agricultural development and determination of applications for prior approval of all telecommunications development including, in consultation with the Chair of the Development Control Committee or Vice Chair, the grant or refusal of applications for prior approval;
- (g)** To settle the Council's statement of case in the event of an appeal being made to the Secretary of State. This will include stating whether the Council would be prepared to grant planning permission or Listed Building Consent as appropriate for the development or the works the subject of the appeal;
- (h)** To advertise applications which, if approved, would not be in accordance with the Development Plan currently in force;
- (i)** To determine whether an application for planning permission would be likely to have significant effects on the environment, such that an applicant must then submit a statement under the Town & Country Planning (Environmental Impact Assessment) (England & Wales) Regulations or an appropriate assessment under the Habitats Regulations, to request any further information that might be required and to determine the scope of any such statement or assessment;
- (j)** Under Part 8 of the Anti-Social Behaviour Act 2003 (and associated Regulations) to consider and determine complaints relating to "High Hedges"; to set and review fees for dealing with complaints; to issue, vary and withdraw remedial notices; to deal with appeals arising from determination of complaints; and
- (k)** To comment on the planning aspects of licensing applications pursuant to the Licensing Act 2003.

**5.7.6** Authority is delegated to the Relevant Officers:

- (a)** To give observations on minor development proposals in adjoining districts, on minor proposals by Essex County Council and on minor proposals by Crown developers;
- (b)** To submit objections or other representations on planning grounds to the licensing authorities or the Traffic Commissioners, on applications for vehicle operators' licences, subject to an appropriate report subsequently being submitted to Development Control Committee;
- (c)** To take all necessary action under Section 215 and 219 of the Town and Country Planning Act 1990 (the proper maintenance of land);
- (d)** To issue Breach of Condition Notices under Section 187A of the Town & Country Planning Act provided that the Relevant Officer shall first consult with the Chair (or in Chair's absence the Vice Chair) of the Development Control Committee;

- (e) To make Tree Preservation Orders and to confirm unopposed Tree Preservation Orders;
- (f) Under Section 171E to 171H of the Town and Country Planning Act 1990 and the Town and Country Planning (Temporary Stop Notice) (England) Regulations 2005, and in consultation with the Strategic Director (Legal & Democratic Services), to issue Temporary Stop Notices; and
- (g) With regards to the Community Infrastructure Levy (“CIL”) under powers as set out in Part 11 of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended) to:
  - Determine the extent of chargeable development and appropriate CIL charge.
  - Consider applications for exemptions from the CIL.
  - Consider adjustments for payment in kind provisions (where relevant).
  - Issue CIL liability notices and demand notices.
  - Instigate any enforcement action relating to the recovery of CIL such as, but not limited to, issuing of CIL stop notices and warning notices (including subsequent removal of any such notices).
  - Receive and consider appeals in relation to liability notices etc.
  - Make any other relevant decisions concerning CIL provided it is in accordance with the adopted CIL Governance Framework document.

**5.7.7** Authority is delegated to each of the following officers to make applications for Grant Assistance to external bodies:

- Deputy Chief Executive (Place)
- Director of Planning & Transport
- Group Manager Strategic Planning

## **5.8 Children Statutory Social Services Complaints**

The Complaints Manager in the Department for People shall be designated the “Complaints Manager” to undertake the prescribed duties under the Children Act 1989 Representations Procedure (England) Regulations 2006.

## **5.9 Adult Statutory Social Services Complaints**

The Customer Services and Complaints Manager in the Department for People shall be designated the “Complaints Manager” to undertake the prescribed duties under the Local Authority Social Services and NHS Complaints (England) Regulations 2009.

## **5.10 Assets of Community Value**

- The Strategic Director (Finance & Resources) has delegated power to determine whether assets nominated should be included in the “List of Assets of Community Value”.
- The Chief Executive has delegated power to deal with reviews requested by an owner pursuant to S.92 of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.

## **5.11 Public Health**

- The Consultant in Public Health may exercise all the powers of the Deputy Chief Executive (People) and the Director of Public Health in respect of Health Protection and Healthcare Public Health as defined in 4.9 above subject to any financial limits in Financial Procedure Rules



## 5.12 Highways

- (a) The Service Managers for Highways may exercise all the powers of the Executive Director (Neighbourhoods & Environment) and the Head of Traffic & Highways in respect of functions within their remit as defined in 4.15 above.
- (b) The following Officers may serve notices and take appropriate action (including but not limited to works in default) under legislation within their area of responsibility, subject to being authorised in that regard by their Chief Officer pursuant to 3.2(h):
  - Highways Enforcement Officers
  - Civil Enforcement Officers
  - Highways Inspectors

## 5.13 Sealing of Documents

The Common Seal of the Council shall not be affixed to any document unless the sealing is required to implement any decision of the Council, the Cabinet, a Committee or an Officer exercising delegated powers.

The Common Seal shall be attested by the Chief Executive, Deputy Chief Executive, Executive Director for Strategy Change & Governance, Director of Legal Services, Assistant Director of Legal Services, or Head of Democratic Services - and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person who shall have attested the seal provided that:

- (i) for the purpose of signing of urgent stock transfers, in the absence of the above, the Executive Director (Finance & Resources) be authorised to sign in his own name; and
- (ii) that for the purpose of issuing stock certificates, the Common Seal may be imprinted thereon when such certificates are printed and may be attested by Chief Executive or Executive Director (Finance & Resources) alone and in that event the requirement that any entry of every sealing of such certificates shall be made in the said book shall not apply.

## 5.14 Signing of Documents

Where any document will be a necessary step in legal proceedings or any transaction on behalf of the Council it shall, unless any enactment requires or authorises, or the Council shall have given the necessary authority to some other person for the purpose of such proceedings or transaction, be signed by the Chief Executive, Deputy Chief Executive, Executive Director for Strategy Change & Governance, Director of Legal Services, Assistant Director of Legal Services, or Head of Democratic Services.

In addition, the Executive Director (Finance & Resources) shall have authority to sign any document relating to a financial transaction on behalf of the Council subject to the same proviso as contained in Standing Order 27.1.