

# SCHEME OF OFFICER DELEGATIONS

The Scheme of Delegation sets out the situations when officers may make decisions on behalf of the Council. The scheme is divided into four sections:

- Part A sets out general principles that apply to all officer delegations;
- Part B sets out those general management delegations that apply to all members of the Strategic Leadership Team;
- Part C sets out delegations applicable to specific services; and
- Part D lists those officers who have been designated by the Council as 'Proper Officers' as required by statute.

Adopted October 2022

### **Part A: General Principles of Officer Delegation**

- i. The following general principles shall apply in respect of all officer delegated powers.
- ii. Officers are expected to make decisions regarding budgetary, operational, statutory and staffing matters for the services for which they are responsible and as with all functions delegated to officers, decisions should be in accordance with:
  - All other parts of the Constitution;
  - Approved budget and policies of the Council; and
  - The law.
- iii. Member decisions may only be made in Committee or at Council meetings. Officers are able to consult with Members prior to taking decisions. The decision remains an officer decision.
- iv. Functions delegated are by reference to job titles or posts as at the date of adoption of the Scheme. In the event that such titles or posts are deleted or otherwise changed subsequently, the delegations will be transferred to those Council post holders whose duties include or most closely correspond to the duties of the post originally referred to.
- v. Any function delegated to a specified officer may also be exercised by any officer who has been so authorised in writing by the officer to whom the function is delegated, or by the Chief Executive.
- vi. Where an officer who is not a Strategic Director has delegated authority to discharge a function by virtue of this Constitution, the relevant Strategic Director in relation to that officer or post may discharge the delegated function where that officer is unable to act, through absence or otherwise, or where the post with the delegated function is vacant.
- vii. Each Strategic Director or Head of Service should immediately notify the Monitoring Officer of any authorisations who will maintain a separate record of sub-delegations relating to that Strategic Directorate.
- viii. Any reference to specific legislation includes any amendments to or modifications of it for the time being in force.

### **Part B: To the Chief Executive and Strategic Directors**

The following delegations apply to the Chief Executive and Strategic Directors, or their duly authorised officer(s).

#### **Urgent Decisions**

- B1.1 The Chief Executive may take any action which is required as a matter of urgency in the interests of the Council or its residents in consultation with
- (a) the Leader and other Group Leaders if time permits, or Chair of Committee (if appropriate)
  - (b) the Section 151 Officer or Monitoring Officer (as appropriate).

- B1.2 A matter may be deemed urgent if, in the reasonable opinion of the Chief Executive, a delay would seriously prejudice the interests of the Council or of the public and it is not practicable to convene a meeting of the relevant decision-making body in sufficient time to take the decision.
- B1.3 Should the Chief Executive declare an interest in any decision proposed to be made or be unable or incapable of acting, then the delegated authority transfers from the Chief Executive to any of the Strategic Directors.
- B1.4 Any decisions so taken will be in accordance with the budget and policy framework and will be reported to the appropriate meeting as soon as practicable and will be recorded in a report and Officer Decision Notice, published on the Council website which will record the reason for urgency, the consultees and any response.

#### **Management of Services for which they are responsible**

- B1.5 The management and administration of the services for which they are responsible, and the incurring of expenditure for such purposes within the approved budget and policy in accordance with the Constitution including for the avoidance of doubt, (subject to any necessary direction from the Chief Executive) authority to take such action as is necessary to implement the decisions and policies of the Council.
- B1.6 To accept a quotation or tender, which is other than the best value price, subject to consultation with the Monitoring Officer following consultation with the relevant Committee Chair.
- B1.7 To transfer expenditure between budget areas, providing this is within their approved budget, subject to consultation with the S151 Officer.
- B1.8 To dispose of surplus or obsolete stock and equipment at the best prices obtainable in accordance with procedures agreed with the S151 Officer.
- B1.9 To write off bad debts and incorrect charges to a limit of £10,000 in any one case, following consultation with the S151 Officer.
- B1.10 The appointment and operational management of all categories of staff, for whom they are responsible.

#### **Staffing**

- B1.11 The granting of awards to employees under the Long Service Award scheme.
- B1.12 To take disciplinary action, including dismissal in relation to staff for whom they are responsible in accordance with the Council's Disciplinary Procedure.
- B1.13 The granting of special leave with pay on compassionate grounds.
- B1.14 The authorisation of attendance or secondment of employees on courses or seminars within the approved Training Plan.

- B1.15 The authorisation of annual leave to be carried forward from one year to the next.
- B1.16 The determination of car allowances in accordance with the criteria adopted by the Council.
- B1.17 The determination of ex-gratia payments in respect of damage to, or loss of, employees' personal property up to £200 and, in consultation with the appropriate Committee Chair, for all other amounts.
- B1.18 To amend the numbers, duties and grades of posts within their responsibility and to change vacant or new posts, within Council policies, priorities and budgets. Such changes are to be the subject of prior approval of the Strategic Director Resources.
- B1.19 To determine applications for extensions of sick pay.
- B1.20 The approval of applications for early retirement from employees and all applications involving voluntary redundancy, and payment in lieu of notice, if appropriate, in accordance with the Council's agreed scheme, subject to having obtained approval of the S151 Officer.

#### **Miscellaneous**

- B1.21 To give written notice seeking deemed planning permission for proposed development to be carried out by the Council or on land owned by the Council where the Council has approved in principle any proposal (whether generally or specifically) which affects or may affect the land to which the planning application relates.
- B1.22 The authorisation by such officers as may from time to time be determined in consultation with the Monitoring Officer to authorise surveillance requests for the purposes of the Regulation of Investigatory Powers Act 2000.
- B1.23 To serve requisitions for information as to the ownership of property under the various statutory provisions where necessary.
- B1.24 To sign and serve all and any documents and notices on behalf of the Council unless specifically reserved to another officer by legislation or this Constitution.
- B1.25 To authorise staff with relevant qualifications as may be required by law or in accordance with the Council's policy, to take samples, make inspections, enter premises, and generally perform the functions of a duly authorised officer of the Council (however described) under the statutory codes and provisions and to issue any necessary Certificates of Authority.

## **PART C: Delegations to Specific Officers**

Subject to the overall direction by the appropriate Strategic Leadership Team member where relevant, the following delegations apply. The Delegations are listed in service areas as follows:

- C1 Delegations to the Chief Executive
- C2 Delegations to the Section 151 Officer and those within that officer's management responsibility
- C3 Delegations to the Strategic Director Resources and those within that officer's management responsibility
- C4 Delegations to the Strategic Director Communities and those within that officer's management responsibility
- C5 Delegations to the Strategic Director Place and those within that officer's management responsibility

### **C1 Chief Executive**

- C1.1 To administer the Civic Fund in consultation with the Chair of Council.
- C1.2 In consultation with the relevant Chair, to rearrange dates and times of meetings, previously approved by the Annual Meeting of the Council.
- C1.3 All matters relating to staffing, employment, terms and conditions and industrial relations for the Council's workforce.
- C1.4 In conjunction with the Strategic Director Resources to operate a system of appeals for all staffing matters.
- C1.5 To act as Returning Officer with the authority to approve at any time the revision of scales of fees for elections and registration of electors where there is no deviation from the basis of nationally agreed scales.
- C1.6 To act as the Council's shareholder representative for all matters relating to the Ubico partnership.

### **C2 Section 151 Officer**

#### **Mortgages and Other Loans**

- C2.1 To extend periods of mortgage repayments and convert to a maturity basis in individual cases where financial circumstances and mortgage provisions permit.
- C2.2 To approve small dealings with property in mortgage to the Council.

- C2.3 To approve proceedings for the recovery of mortgage debts.
- C2.4 To issue Loan and other Credit Instruments up to a maximum of £5,000,000 per issue with a life of not less than one year and not more than twenty years where legally permitted.
- C2.5 To determine price, rate of interest and period until redemption of Loan Instruments.

#### **Treasury Management and Investment**

- C2.6 To externalise internal investments as necessary and appoint agents to manage the investments in a portfolio compliant with legal requirements and as set out in the Council's Treasury Policy Statement.
- C2.7 To set the interest rate applicable for 6 monthly periods on Housing Act advances in line with Government directions.
- C2.8 To execute and administer treasury management decisions including making investments and undertaking borrowing-

#### **Budget and Reserves**

- C2.9 To establish and administer an effective scheme of virements
- C2.10 To use balances to finance General Fund and Housing Revenue Account expenditure in the future, as set out in the latest approved Medium Term Financial Plan.
- C2.11 To create new earmarked reserves as appropriate and close those no longer required in consultation with the relevant Committee Chair.
- C2.12 To carry forward unspent budgets into future financial years if deemed appropriate as part of the financial outturn process
- C2.13 To allocate resources from earmarked reserves to fund related expenditure in consultation with the relevant Committee Chair.
- C2.14 To increase or reduce earmarked reserves to ensure balances are adequate for the purpose intended in consultation with the relevant Committee Chair.
- C2.15 Reprofile capital budgets between financial years as set out in Capital Strategy

#### **Council Tax**

- C2.16 To set the tax bases for Council tax setting purposes, and calculate and set the estimate surplus on the Council Tax Collection Funds.

### **Council Tax, National Non-Domestic Rates (NDR) and Bad Debts**

- C2.17 To determine applications for the grant of relief from Non-Domestic Rates on grounds of hardship and Discretionary Rate Relief.
- C2.18 To establish discretionary schemes for grant payments or Non-Domestic Rate relief
- C2.19 To act in the Council's best interests in relation to any proposed alteration to the Valuation List.
- C2.20 To make proposals for and to determine and make amendments to the relevant authorities in respect of the Collection Fund.
- C2.21 To authorise, under Section 223 of the Local Government Act 1972, the appearance in the Magistrates Court of staff concerned with the recovery of Council Tax and Non-Domestic Rates.
- C2.22 The write off Council Tax, Non-Domestic Rates and any other non-collectable debts owed to the Council, in accordance with the financial regulations.

### **Benefit Fraud**

- C2.23 To institute Court proceedings in respect of alleged benefit fraud.

## **C3 Strategic Director of Resources**

### **Human Resources**

- C3.1 To determine the following matters subject to such being compatible with the overall direction of human resource matters by the Chief Executive:
  - (a) To administer and implement, in consultation with the Head of Human Resources the Council's organisational employee development and human resource plans;
  - (b) To determine the interpretation and application of pay scales and conditions of service for all employees;
  - (c) To consider and make changes in grading and other conditions for existing postholder(s);
  - (d) To administer any schemes for awards to employees making suggestions which could affect economies and improve efficiency etc.

### **C3A Monitoring Officer**

#### **Monitoring Officer Responsibilities**

- C3A.1 To take all such action as may be required to properly discharge the duties of Monitoring Officer as specified in Section 5 of the Local Government and Housing Act 1989, with respect to the legality of action taken or proposed to be taken by the Council.

C3A.2 To take all such action as may be required to properly discharge the duties of Monitoring Officer regarding Ethical Governance and Standards matters as specified in Part III of the Local Government Act 2000 (as amended).

C3A.3 In consultation with the Chief Executive and Constitution Working Group to make such amendments to the Constitution which, in that officers judgement, need to be made in view of the Council's resolutions, to correct anomalies and to reflect any changes to the law, such amendments will be reported for information.

### **Information Management**

C3A.4 To act as the officer responsible for all matters relating to information governance including Freedom of Information, Data Protection, Regulation of Investigatory Powers and Surveillance which will include reviewing decisions made on requests made under the Freedom of Information Act.

C3A.5 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, to sign or authorise any other officer to sign for the purposes of authentication, unless:

- (a) any enactment otherwise authorises or requires; or
- (b) the Council has given requisite authority to some other person to authenticate.

C3A.6 To witness the affixing of the Common Seal of the Council in any circumstances where that function has not been delegated under C2B.8.

C3A.7 To make decisions as detailed in the Council's Contract and Procurement Procedure Rules.

C3A.8 To determine applications for the temporary exclusion of traffic from streets under Section 21 of the Town Police Clauses Act 1847.

C3A.9 To determine reviews against decisions on:

- (a) homelessness decisions under Section 202 Housing Act 1996;
- (b) the termination or extension of Introductory Tenancies;
- (c) the termination of a tenancy on absolute grounds under Section 85ZA of the Housing Act 1985;

as part of a panel involving one Member of the Audit and Standards Committee who has received appropriate training.

C3A.10 As the Council's Senior Information Risk Officer (SIRO), to provide guidance on information security, develop relevant policy, conduct annual reviews and investigate suspected breaches of relevant procedures or other requirements.



### **C3B – Head of Legal Services (Director of One Legal)**

**Please note that authority for all matters formerly delegated to the Head of Legal Services has now been delegated to the Director of One Legal - Tewkesbury Borough Council, by virtue of a Section 101 Agreement dated the 30<sup>th</sup> September 2020.**

#### **Legal Proceedings and Advice**

- C3B.1 Authority to prosecute in the Magistrates' Court or to initiate proceedings in the County Court.
- C3B.2 After consultation with the Chief Executive and Section 151 Officer to initiate any action in the High Court.
- C3B.3 To defend all actions brought against the Council in any court or tribunal.
- C3B.4 To instruct Counsel.
- C3B.5 To authorise the appearance of non-admitted legal staff within the section in the Magistrates' Court under section 223 of the Local Government Act 1972.
- C3B.6 To settle disputes and litigious actions subject (if time constraints permit) in prior consultation with the Chief Executive and Section 151 Officer where such actions are in the High Court.
- C3B.7 To institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Director of One Legal considers that such action is necessary to protect the Council's interests and is satisfied as to the available evidence.

#### **Common Seal of the Council**

- C3B.8 The common seal of the Council will be affixed to those documents which in the opinion of the Director of One Legal should be sealed.
- C3B.9 The common seal will be kept in a safe place in the custody of the Director of One Legal.
- C3B.10 The affixing of the common seal must be attested by any of the following: the Director of One Legal (Tewkesbury Borough Council), a Head of Law (Tewkesbury Borough Council), the Chief Executive, Strategic Director, Monitoring Officer, Chair of Council, the Leader or Deputy Leader.
- C3B.11 To undertake decisions delegated to the Chief Executive where such decisions are required to be dealt with by a Solicitor of the Supreme Court.

**C3C Head of Property Services**

C3C.1 To procure contracts or additional works as appropriate to services for which the Head of Property Services is responsible subject to such being within approved budget and policy.

**Corporate Property Officer**

C3C.2 To act as the Council's Corporate Property Officer as defined in the Corporate Asset Management Strategy.

C3C.3 To purchase and dispose of land and property PROVIDED THAT in the case of purchases:

- (a) the Head of Property Services and Section 151 Officer are both satisfied that there is a robust business case for the acquisition); and
- (b) it is in accordance with approved policy and budget

AND FURTHER SUBJECT TO consultation with:

- (c) The relevant Ward Member(s);
- (d) The relevant Committee Chair; and
- (e) The appropriate Strategic Director.

C3C.4 To authorise appropriately qualified and experienced staff (namely Members of the Royal Institution of Chartered Surveyors) to enter into negotiations in connection with the general management and control of all Council property (land and buildings).

C3C.5 To make decisions (including negotiating, agreeing, granting and issuing instructions to the Council's legal services provider to enter into appropriate agreements ) in connection with the general management and control of all Council property (land and buildings) in consultation with the appropriate service areas,

**Right to Buy Disposals**

C3C.6 To approve the sale of houses and flats under the Right to Buy (RTB) legislation.

C3C.7 To determine whether the Council's right to reclaim discount on a RTB sale should take priority over a legal charge in favour of a third party.

C3C.8 To approve any waiver of repayments of RTB discounts in consultation with the Section 151 Officer and Chair of Housing Committee.

### **Former Council Houses**

C3C.9 To determine applications from the owners of former Council houses in respect of covenants in any conveyance or transfer which relate to using the property as a single private dwelling house and/or preventing the erection of buildings, alterations or extensions, including hard standings.

### **Former Council Houses in the Cotswolds AONB**

C3C.10 To decide applications to purchase a former Council property where the applicant(s):

- (a) Has / have at least 3 years residency or employment in Gloucestershire for the three years preceeding the application for consent; or
- (b) Has previously lived in Gloucestershire for at least 3 years
- (c) Is / are member(s) of the Armed Forces and have lived in Gloucestershire for at least 2 years; or
- (d) Is a Registered Proprietor of social housing which proposes to purchase under the Government's Mortgage Rescue subject to consultation with the Chair of the Housing Committee.

### **New Build and Regeneration Programme/ Major Works and Housing Management**

C3C.11 The Head of Property Services, Head of Housing Services and Head of Housing Contracts each

- (a) To make decisions in accordance with the Council's Decanting Policy; and
- (b) To serve demolition notices on relevant tenants in consultation with the Chair and Vice-Chair of Housing Committee and Ward Councillors)

### **C3D Head of Technology**

- C3D.1 To invite tenders and accept tenders where provision has been made in the budget subject to both the Contract and Procurement and Financial Procedure Rules.
- C3D.2 To ensure procedures are in place (and communicated) to protect Council ICT assets from any inappropriate activity, use, loss or removal. This will include adhering to all appropriate legislation and Council rules regarding the acquiring, use, retention and removal/destruction of all Council ICT assets (including information).
- C3D.3 To procure contracts, additional goods, works and services as appropriate which fall within this area of responsibility subject to such being within approved budget and not contrary to policy.
- C3D.4 To ensure IT service continuity in the event of a disaster that requires a switch over of the IT services from the primary site (currently at Ebley Mill) to the secondary site (currently at Littlecombe).'
- C3D.5 To ensure damage from a cyber-attack is minimised and/or contained by switching off some or all of the IT services.

### **C4 Strategic Director of Communities**

#### **General**

- C4.1 To take all actions and make decisions relating to the Council's regulatory and permissive functions under relevant legislation and associated regulations in respect of:
- (a) anti-social behaviour;
  - (b) operation of all civil parking enforcement; and
  - (c) waste fly tipping.

#### **Tenant Services**

- C4.2 To determine all matters in connection with the general management and control of all property falling within the Housing Revenue Account subject to such being within approved budget and not contrary to policy.
- C4.3 To procure contracts or additional works as appropriate to services which fall within his/her area of responsibility subject to such being within approved budget and not contrary to policy.

#### **Housing / Homelessness**

- C4.4 To approve minor amendments to the Housing Allocation Policy.

- C4.5 To make decisions on the allocation or transfer of Council House or other registered provider tenancies.
- C4.6 To make decisions in respect of the provision of accommodation for homeless persons, subject to the review of any refusal decision by the Housing Appeals Panel.
- C4.7 To agree temporary tenancies for either staff or persons displaced by renovation grant works.
- C4.8 To make nominations of prospective tenants to registered providers of housing or other bodies.
- C4.9 To procure specialist housing or housing related support services, including in partnership with other organisations.

#### **Housing Enabling**

- C4.10 To advise Homes England of Affordable Housing Projects which meet priorities identified in strategies of both the Council and Homes England.
- C4.11 To commit payment of Affordable Housing Grants from within the approved Capital Programmes for new projects being developed by Registered Providers.
- C4.12 To undertake such ancillary duties, within the terms of the approved capital programme, as will facilitate the provision of affordable housing in the District.

#### **Cultural Services**

- C4.13 To set and vary fees and charges in relation to:-
- (a) Use of Council facilities at:
- Ebley Mill;
  - Joint Use Centres;
  - Stratford Park Leisure Centre (wet side only);
  - Shambles Market; Cornhill Market;
  - Dursley Pool and Sports Centre;
  - Museum in the Park; and
  - Council public spaces.
- (b) Food and Beverage vending machines at Council premises;
- (c) Incentives/concessions/offers in line with approved business / service plans;
- (d) Food and beverages, splits with promoters on performances and other incentives / concessions/ offers, exhibition and general hire prices in line with the business/service plan at:

- Museum in the Park
- (e) Specific events at Stratford Park / Court.

### **Community Safety**

C4.14 To set charges for the removal/disposal of abandoned/scrap vehicles.

### **Off Street Car Parks**

C4.15 To propose and make changes in respect of off street parking and consider any objections to and implement changes (as appropriate) to the Stroud District Council (Off Street Parking Places) (Consolidation) Order 2010 (as amended from time to time), in consultation with:

- a) The Chair of the Community Services and Licensing Committee; and  
The Head of Property Services.

### **Ubico**

C4.16 To act as the Council's nominated director on the board or authorise an appropriate officer to act in that role in his / her stead.

### **C4A Head of Housing Services**

#### **Council House Tenancies**

C4A.1 To determine:

- (a) All matters relating to transfer applications (including cases where there are rent arrears and special circumstances);  
(b) Applications for mutual exchanges;  
(c) All matters regarding garage tenancies;  
(d) Applications from tenants wishing to use their dwellings for business purposes.

C4A.2 To make offers of accommodation and to commence tenancies of Council dwellings.

#### **Breach of Tenancy Conditions**

C4A.3 To take action in respect of:

- (a) the recovery of rent arrears and/or other breach of tenancy conditions;  
(b) to sign and serve of Notices to Extend Introductory Tenancies, Notice of Proceedings for Possession, Notice of Seeking Possession, Notices Seeking Demotion of Tenancy and Notices to Quit;  
(c) in consultation with the Director of One Legal to:
  - preserve the individual and collective rights of tenants to quiet enjoyment of their properties;

- seek injunctions in connection housing tenancy enforcement.

C4A.4 To determine proposals for the settlement, deferment or variation of arrangements in connection with outstanding rent arrears.

C4A.5 In consultation with the Director of One Legal to take action against trespassers in council housing or other housing related land.

#### **Grants to Tenants' Groups**

C4A.6 To allocate grants for specific projects within agreed budgets pertinent to tenants' groups.

#### **New Build and Regeneration Programme/ Major Works and Housing Management**

**C4A.7** The Head of Property Services, Head of Housing Services and Head of Housing Contracts each

- To make decisions in accordance with the Council's Decanting Policy; and
- To serve demolition notices on relevant tenants in consultation with the Chair and Vice-Chair of Housing Committee and Ward Councillors)

#### **C4B Head of Contract Services**

C4B.1 To undertake such ancillary duties, within the terms of the approved capital programme, as will facilitate the provision of social housing in the District.

C4B.2 To procure contracts or additional works as appropriate to services for which Head of Contract Services is responsible subject to such being within approved budget and policy.

#### **New Build and Regeneration Programme/ Major Works and Housing Management**

**C4B.3** The Head of Property Services, Head of Housing Services and Head of Housing Contracts each

- To make decisions in accordance with the Council's Decanting Policy; and
- To serve demolition notices on relevant tenants in consultation with the Chair and Vice-Chair of Housing Committee and Ward Councillors)

#### **C5 Strategic Director of Place**

##### **General**

- C5.1 To take all actions and make decisions relating to the Council's regulatory and permissive functions under relevant legislation and associated regulations in respect of:
- (a) environmental crimes in connection with services for which the Strategic Director of Place is responsible;
  - (b) serving of fixed penalties in connection with services for which the Strategic Director of Place is responsible;

### **Grant Funding**

- C5.2. To agree, maintain and renew all core grant funding agreements with voluntary and community organisations within the criteria set by committee subject to:
- (a) consultation with the relevant committee's members; and
  - (b) none of the consulted committee members requiring the decision to be referred to committee for determination.

### **Debts**

- C5.3 In consultation with the relevant Committee Chair and the Strategic Director of Resources to determine the operation and award of all expenditure to relevant organisations from the Regeneration Service Budgets.
- C5.4 To determine the operation and award of all expenditure for relevant projects funded from Climate and Carbon Management related budgets.
- C5.5 To agree and when necessary, present responses to both statutory and non-statutory consultations relevant to the Place Directorate on behalf of the Council.
- C5.6 With the exception of substantive changes to the Council's adopted Charging Schedule or the Regulation 123 List or the allocation of funds, to determine all community infrastructure levy matters in accordance with the Charging Schedule, the Regulation 123 List and other associated policies and practices affecting the Council.  
[NB. Delegation C4.7 may also be exercised by the Head of Planning Strategy and Economic Development]
- C5.7 To name and number new streets, to rename streets and to set fees in respect thereof unless statutorily prescribed.
- C5.8 To set fees for all Local Land Charges matters except where such fees are statutorily prescribed.



**C5A Head of Development Management, Head of Building Control and Head of Planning Strategy and Economic Development**

**Head of Development Management and Related Applications**

- C5A.1 To determine all planning and related applications in accordance with the operational arrangements specified in Appendix A to the Scheme of Delegations Part C.
- C5A.2 To set and subsequently adjust as necessary the scale and scope of charges for planning submissions in consultation with the Section 151 Officer and the relevant Committee Chair.
- C5A.3 In consultation with the Director of One Legal to determine the content of Section 106 Deeds, variations and releases and to execute such deeds in the name of the Council.
- C5A.4 To refuse planning and related applications on such terms as they consider appropriate where the relevant application has been:
- (a) superseded by events; or
  - (b) where information requested has not been received; or
  - (c) which have been considered by the Development Control Committee but the applicants or their appointed agents have not made reasonable attempts to complete a Section 106 Deed which is acceptable to the Planning Manager within six months of the resolution by Development Control Committee.

**Article 4 Directions**

- C5A.5 In consultation with the Director of One Legal to make Directions under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, removing or restricting permitted development rights from land and property.

**Listed Buildings**

- C5A.6 To issue and serve:
- (a) Building Preservation Notices;
  - (b) Listed Building Enforcement Notices.
- C5A.7 To undertake works to secure compliance with any listed building enforcement or allied notice.
- C5A.8 To authorise the execution of any urgent work considered necessary to preserve an unoccupied listed building.
- C5A.9 To apply for injunctions to restrain breaches of Building Preservation Notices or Listed Building legislation.

C5A.10 To prosecute for any breach of Listed Building Control.

### **Planning Enforcement**

C5A.11 Unless consideration is reserved to Development Control Committee under Appendix B to the Scheme of Delegations Part C to take enforcement action (including but not limited to):

- (a) issue and/or service of Enforcement Notices and Breach of Condition Notices;
- (b) issue and/or service of Stop Notices (including temporary Stop Notices);
- (c) undertake works to secure compliance with any enforcement or allied Notice;
- (d) apply for injunctions to restrain breaches of planning control;
- (e) prosecute for any breach of planning control;
- (f) require proper maintenance of land and to take appropriate action in the event of non-compliance with any notice (e.g. section 215 notice);

**Commented [MK1]:** Gerry: Remove – this is unworkable given the amount of enforcement cases we now deal with

### **Protection of Trees and Hedges**

C5A.12 To make Provisional (Emergency) Tree Preservation Orders.

C5A.13 To revoke or vary Tree Preservation Orders.

C5A.14 To confirm Tree Preservation or related Orders unless there is any sustained objection.

C5A.15 To serve notices requiring the replacement of trees.

C5A.16 To apply for injunctions to restrain actual or threatened damage to protected tree(s).

C5A.17 To prosecute for any offence relating to trees.

C5A.18 To respond to notifications to fell or lop trees which are in Conservation Areas.

C5A.19 To determine applications to fell or lop trees the subject of a confirmed Tree Preservation Order.

C5A.20 To take action in relation to dangerous trees.

C5A.21 To take action to protect important hedgerows.

### **Advertisements**

C5A.22 To require the removal of the unauthorised display of advertisements.

C5A.23 To authorise the removal or obliteration of unauthorised placards or posters.

C5A.24 To prosecute for any offence relating to the display of advertisements.

### **Head of Planning Strategy and Economic Development**

#### **Localism**

C5A.25 To confirm a parish council's designation as a 'neighbourhood' and any associated issues, subject to there being no objections to a notification.

C5A.26 To determine nominations for land and property as Assets of Community Value.

### **Head of Building Control**

#### **Building Control**

C5A.27 To pass or reject plans submitted to the Council under Building Regulations.

C5A.28 To determine applications made to the Council for dispensations from or relaxations of Building Regulations.

C5A.29 To issue or serve any appropriate notices under the Building Act 1984, including Notices in respect of dangerous structures.

C5A.30 In consultation with the Director of One Legal, to prosecute or take other appropriate legal proceedings to secure compliance with the Building Act 1984 and under the Building Regulations.

C5A.31 To set charges for all Building Regulation purposes together with power to vary such charges where it is considered to be in the Council's interests to do so.

C5A.32 To participate in the Partner Authority Scheme whereby local Building Control bodies aid each other in providing a coordinated delivery mechanism to applicants.

C5A.33 To issue completion certificates for works carried out under a Building Regulations and those requested in respect of premises designated under the Fire Precautions Act 1971.

C5A.34 To act as "appropriate officer" for the purposes of the Party Walls etc. Act 1996.

#### **Miscellaneous**

C5A.35 To lodge formal objections to good vehicles operator licences.

C5A.36 To authorise officers to enter land or premises for enforcement and other purposes in exercise of the Council's functions as local planning authority.

C5A.37 To obtain particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

C5A.38 To serve service remedial notices regarding high hedges pursuant to Anti-Social Behaviour Act 2003

### **C.5B Head of Environmental Health**

#### **General**

C5B.1 Subject to paragraph C4B.5 below, take all actions and make all decisions relating to the Council's regulatory and permissive functions under relevant legislation and associated regulations in respect of the following:

- a. Animal activities and animal establishments
- b. Animal welfare
- c. Air quality
- d. Caravan sites
- e. Cinemas
- f. Contaminated Land
- g. Control of Pollution
- h. Control of smoking in enclosed spaces
- i. Environmental crimes, anti-social behaviour and serving of fixed penalties, including functions under the Antisocial Behaviour, Crime and Policing Act 2014
- j. Environmental Protection – including statutory nuisance and environmental permitting and other functions under the Environmental Protection Act 1990
- k. Face to face fundraising activities
- l. Flood prevention
- m. Food safety and hygiene
- n. Gambling (except where under Council policy or statute a matter must be determined by the Council or by the Licensing Committee)
- o. Game and Game dealers
- p. Hackney carriages and drivers (except where under Council policy or statute a matter must be determined by the Council or by the Licensing Committee)
- q. Health and Safety
- r. House to House collections
- s. Infectious diseases
- t. Land Drainage and foul drainage
- u. Licensing Act 2003 (except where under Council policy or statute a matter must be determined by the Council or by the Community Services and Licensing Committee)
- v. Licensing functions and consents other than those listed separately
- w. Local Government (Miscellaneous Provisions) Act 1976
- x. Local Government (Miscellaneous Provisions) Act 1982

- y. Lotteries
- z. Motor salvage operators
- aa. Noise and other statutory nuisances
- bb. Pavement licences
- cc. Port Health
- dd. Pest control
- ee. Private Hire vehicles (drivers and operators) (except where under Council policy or statute a matter must be determined by the Council or by the Licensing Committee)
- ff. Private Sector Housing
- gg. Private Water supplies
- hh. Public Health
- ii. Public Safety
- jj. Public space and neighbourhood enforcement under the Clean Neighbourhoods and Environment Act 2005
- kk. Regulation of charitable collections
- ll. Scrap metal dealers
- mm. Sexual entertainment venues
- nn. Skin piercing registrations
- oo. Street collections
- pp. Street trading
- qq. Sunday trading
- rr. Town and Country Planning Act 1990 Sections 215 – 219

C5B.2 To appoint officers and inspectors to undertake work (including service of notices) relating to the Council's regulatory and permissive functions to which paragraph 4B.1 refers;

### **Licensing**

C5B.3 To authorise the Licensing Manager and the Licensing Officer to determine:

- (a) applications made under the Licensing Act 2003 and the Gambling Act 2005 and associated regulations except where objections or representations have been received;
- (b) minor variation applications including occasions where any relevant representation is received;
- (c) applications relating to taxis and private hire operators, private hire vehicles and drivers and to revoke/suspend licences except where the taxi and private hire licensing policy delegates the decision to be referred to a Licensing Sub-Committee; and
- (d) applications for house to house and street collections.

C5B.4 To review and amend fees and charges for matters relevant to functions in paragraph C4B.1, in line with inflation or other changes in charges to which the Council is subject.

**Court Proceedings**

C5B.5 To institute court proceedings in connection with the discharge of the functions delegated to him/her, subject to consultation with One Legal.

## Appendix A

### **EXCEPTIONS TO DELEGATIONS REGARDING DEVELOPMENT CONTROL (PARA C4A.1 OF THE SCHEME OF DELEGATIONS)**

- I. The delegation shall not apply to an application where the Chair of Development Control Committee (“DCC”) (or in his/her absence the Vice Chair of the Committee) having:
- (a) consulted the Head of Development Management (or their subdelegates); and
  - (b) being satisfied that the application is a matter which should be considered by committee taking account of paragraphs 1 to 4 below
- requires that the application first be referred to DCC for consideration before determination.

#### **II. Requirements for reference of items to DCC**

1. Requests for items to be placed before the DCC may only be made to the Development Team Manager, the Head of Development Management or the Chair of the DCC by:
  - (a) the Parish or Town Council in which the application site is located, or
  - (b) a Ward Councillor within whose ward the application site is located.
2. An application which the Head of Development Management (and relevant subdelegates) would otherwise consider it appropriate to determine pursuant to their delegation, should only be referred to committee where it has:
  - (a) generated significant demonstrable third party interest; and
  - (b) such interest is based upon relevant material planning considerations
3. Any request for an application to be referred to committee must:
  - (a) be made in writing using DCC referrals web form;
  - (b) be sent to `_WEB_DCC.referrals`;
  - (c) be received by the Head of Development Management (or their subdelegates) before consideration of the application under officer delegated powers to ensure that the application is not determined prior to receipt of such request. (Applications will be placed before the delegated panel after the expiry of the 21 day consultation period)
4. An application may not be referred to committee pursuant to this Appendix if it concerns a matter of technical appraisal, fact or legal opinion; or is an application with fixed determination periods (e.g. notifications, prior approvals, approval to discharge conditions and minor amendments).

## Appendix B

### **DELEGATION OF DECISIONS ON ENFORCEMENT ACTION OPERATIONAL ARRANGEMENTS (PARA C4A.11 SCHEME OF DELEGATIONS)**

- I. This Appendix sets out operational arrangements relevant to the planning enforcement decisions in paragraph C4A.11 of the Scheme of Delegations.
- II. **Expediency notice to Members**

Where the Head of Development Management (or subdelegates) considers that public interest warrants it, an expediency report will be produced and circulated to all members of Development Control Committee and the relevant ward members(s) setting out the breach(es) of planning control that has been investigated and the action which officers recommend pursuing. No action will be taken until the expiry of III. below
- III. **Evaluation Period**

No further action will be taken on the cases listed until a two week consultation period has expired after the publication to Members or all consultees have responded before the expiry of the 2 week period, or it has been agreed by the Head of Development Management in consultation with the Chair of DCC that the matter requires urgent earlier action.
- IV. **The withdrawal of an enforcement decision**

Any early withdrawal of an enforcement notice will be agreed by the Head of Development Management in consultation with the Chair of the Development Control Committee
- V. **Information reporting to committee**

Where the Head of Development Management considers it is appropriate to take action against a breach of planning control where enforcement action could result in the demolition of a dwelling(s), the case shall be referred to DCC for its consideration and decision.

Demolition of building of over 100m<sup>2</sup> floor space, or an extension to a dwelling house of over 100m<sup>2</sup> floor space, the case will be reported to the DCC for information on a quarterly basis.
- VI. **Further action**

Where the delegated decision is to take enforcement action, the delegation includes authority to take any further action to secure a cessation of the breach.



**PART D: DESIGNATION OF PROPER OFFICERS**

**D.1 Chief Executive**

In the absence of the above, any of the Strategic Directors will be the Council's Proper Officer for any of the below purposes.

<b>Legislation</b>	<b>Detail</b>
<b>Local Government and Housing Act 1989</b>	
Section 4	Officer designated as Head of the Council's Paid Service.
Sections 15 - 17 and associated Regulations	Officer responsible for the purposes of legislation relating to political groups and balance on Committees etc.
Section 18 and associated Regulations	Officer responsible for the purposes of the Council's Members' Allowance Scheme.
Section 19 and associated Regulations	Officer to whom general notices of interests shall be given and who shall maintain records which are open to public inspection
<b>Local Government Act 1972</b>	
Section 13(3)	Officer who, in appropriate circumstances, shall, with the Chair of the Parish Meeting, constitute the "Parish Trustees".
Section 83	Officer to whom declarations of acceptance of office shall be delivered.
Section 84	Officer to whom written notice of resignation may be delivered.
Section 88	Officer who may convene a meeting for the election of Chair of Council following a casual vacancy in that office.
Section 89	Officer to whom notice of a casual vacancy may be given.
Section 210(6) and (7)	Officer in whom shall vest any power with respect to a Charity and who shall be included as a Trustee of any charity within the meaning of the Section.

Section 225(1)	Officer responsible for receiving any document on behalf of the Council and for carrying out the duties relating thereto as required by the Section.
Schedule 12	Officer who shall sign summonses to Council meetings and receive notices of addresses to which summonses are to be sent.
Other	To be the Proper Officer of the Council in relation to any reference in any enactment which is to be interpreted as a reference to a Proper Officer of a local authority where the Council has not appointed another officer to be its Proper Officer and also excepting any such reference which is within the direct remit of one of the Council's Strategic Directors or which implies that Council's the Monitoring Officer or the Section 151 Officer shall be so designated.
<b>Representation of the People Act 1983</b>	
Section 8	Officer appointed as the Registration Officer for any constituency or part of a constituency within Stroud District.
Section 35	Officer appointed to be the Returning Officer for elections of Councillors of the Stroud District and for elections of Councillors of parishes within the District.

## **D.2 Section 151 Officer**

In the absence of the above, the Deputy Section 151 Officer will be the Council's Proper Officer for any of the below matters.

<b>Local Government Act 1972</b>	
Section 115(2)	Officer to whom all money due from every officer employed by the Council shall be paid.
Section 146(1)(a)	Officer authorised to make statutory declarations and issue certificates relating to the transfer of securities on the alteration of areas etc.
Section 151	Officer responsible for the administration of the Council's financial affairs. (Section 114 of the 1988 Act places a specific duty on this officer to make a public report in specified cases of actual or anticipated financial misconduct).
Section 191(2)	Officer to whom applications under S1 Ordnance Survey Act 1841 shall be sent.
Section 228(3)	Officer responsible for making "Proper Officer" accounts open to inspection by members of the authority.

## **D.3 Monitoring Officer**

In the absence of the above, the Borough Solicitor or her nominee may act as Proper Officer in respect of any of the below matters provided always that any person appointed "Deputy Monitoring Officer" shall assume the role of Monitoring Officer.

<b>Local Government Act 1972</b>	
Section 100(B)	Officer to decide which exempt items shall be excluded from those made available to the public before a meeting.
Section 100(C)	Officer to make a written summary of proceedings where exclusion is necessary of parts of minutes which would reveal exempt information.
Section 100(F)	Officer to decide that documents relating to the business of the Council, which contain exempt information under paragraphs 1-6, 9, 11, 12 and 14 of Part 1 of Schedule 12A, are not required to be open for inspection by all members of Council.

Section 236 (9) and (10)	Officer responsible for sending a copy of every by-law made by the Council to Parish Councils, Town Councils and Parish Meetings within the District and to the County Council.
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<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
Section 41	Officer who shall certify copies of resolutions and minutes of proceedings of the Authority.
Data Protection Act 2018	Officer designated as the Council's Data Protection Officer.
Freedom of Information Act 2000	Officer responsible for Access to Information.
<b>Local Government and Housing Act 1989</b>	
Section 5	Officer designated as the Council's Monitoring Officer.

#### **D.3A Director of One Legal**

Section 223 (1)	Officer authorised to prosecute or defend or to appear on the Council's behalf.
Section 238	Officer who shall certify a copy of a by-law made by the Council for evidence purposes.

#### **D.4 Strategic Director of Place**

In the absence of the above, any of the Strategic Directors shall be the Council's Proper Officer for any of the below purpose.

<b>Local Authorities Cemeteries Order 1977</b>	Officer responsible for the registration of burials and for the storage of appropriate records and the operational management of cemeteries.
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In respect of matters arising under the Building Act 1984, the Council's Building Control Manager shall be its Proper Officer. In respect of all other matters, the Strategic Director of Development Services or the relevant manager responsible for dealing with the matter in question shall be the Proper Officer of the Council.

<b>Building Act 1984</b>	
Section 61	Officer who shall be permitted to have free access to works of repair etc to drains.
Section 78	Officer who may exercise the powers of Sub-Section (1) relating to emergency measures necessary in respect of dangerous buildings or structures.
<b>Other</b>	Officer authorised to serve any notice in respect of matters within his/her area of responsibility where such service is to be undertaken by an Officer designated by the Authority.

<b>Stroud Port Health Authority Order 1979</b>	Officer designated as Proper Officer for the purposes of this Order and any related legislation.  To be the appointed Registered Medical Practitioner for the purposes of this Order and any related legislation.
<b>Public Health (Control of Disease) Act 1984</b>	To be the Proper Officer of the Authority for all purposes under this Act other than those for which any other officer is specifically so designated.

#### **D.5 Strategic Director Communities**

In the absence of the above, the Head of Housing Services shall be the Council's Proper Officer for any of the below purpose.

<b>Rent Act 1977</b>	Officer authorised to sign certificates on behalf of the Council, as the Local Housing Authority.
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#### **D.8 Generic**

The Chief Executive, the Strategic Directors and the Monitoring Officer are designated "Proper Officer" in respect of the following functions in so far as the matter relates to their respective areas of responsibility. In the absence of a Strategic Director, the relevant Service Head or Manager, responsible for dealing with the matter in question shall be the "Proper Officer" of the Council.

<b>Local Government Act 1972</b>	
Section 229(5)	Officer responsible for certifying a photographic copy, as being a copy of an original document.
Section 234	Officer authorised to authenticate documents which require such authentication.
Section 100D	Officer responsible for the identification and listing of background papers in his/her name or joint reports where his/her name is the first shown.
<b>Regulation of Investigatory Powers Act 2000</b>	Such officer or officers who may be designated to grant authorisation for the carrying out of intrusive surveillance under Sections 28 and 29 of Regulation of Investigatory Powers Act 2000 which as at February 2022 is the Head of Environmental Health and Strategic Director of Place.

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