

DELEGATED POWERS TO THE CHIEF EXECUTIVE AND THE DIRECTOR OF LAW AND GOVERNANCE

The following Delegated Powers should be read in conjunction with all other relevant parts of the Constitution, in particular –

- The General Scheme of Delegation to Heads of Departments (Part 3)
- The Financial Procedural Rules and Standard Financial Instructions (Part 4F)
- The Contract Procedure Rules (Part 4G)

and the Local Conditions of Service.

Officers should also have regard to any departmental rules and conventions before exercising these powers.

NOTE: -

- *Any exercise of a delegated power shall not involve a key decision.*
- *Any delegation to a head of department Officer may be exercised on his or her behalf by any officer authorised by him or her either generally or specifically for the purpose.*

POWER

**COMMITTEE/
SUBCOMMITTEE**

Financial Matters

1. Members Allowances

Power to the Chief Executive:

COUNTY COUNCIL
17/09/03

- (a) make decisions regarding the payment of allowances where it is not practical to obtain a decision from a “relevant body”.

- (b) take all necessary steps to maintain the Independent Remuneration Panel to advise the Council on Members’ Allowances on the basis agreed by the Constitution Committee on 26 September 2001, including the power to determine the allowance paid to the Panel members having regard to increases in inflation.

CONSTITUTION
COMMITTEE
08/03/06

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| 2. | <u>Scale of Election Expenses</u> | Power to the Chief Executive to approve the scale of fees to apply at any by elections. | CONSTITUTION
COMMITTEE
10/03/09 |
| 3. | <u>Local Authorities (Indemnities for Members and Officers) Order 2004</u> | Power to the Director of Law and Governance to determine requests by officers and members for assistance under indemnity, except that in the case of requests for assistance by members in respect of breaches of the Members' Code of Conduct, the Chief Executive shall be authorised to determine such requests. | CABINET
14/06/11 |
| 4. | <u>Payments or other benefits in cases of maladministration</u> | Power to the Director of Law and Governance, in consultation with the relevant Chief Officer, to make payments or provide other benefits in cases of maladministration, subject to information on those payments being included in the annual report to the Corporate Governance Committee on the Ombudsman Annual Review and Corporate Complaint Handling and after consulting the Chairman of the Corporate Governance Committee in any case where the value exceeds £5,000. | CORPORATE
GOVERNANCE
COMMITTEE
26/11/12 |

Pensions

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| 5. | <u>Local Government Pension Scheme Complaints</u> | <p>In respect of applications received by the County Council as the administering authority for the Leicestershire County Council Pension Fund under the Local Government Pension Scheme Regulations 2013 (or such other regulations as come in to force from time to time), power to the Director of Law and Governance to:</p> <p>(a) act as the adjudicator and determine applications at Stage I of the process;</p> <p>(b) act as the adjudicator and determine applications at Stage II of the process provided that the Director will not exercise this delegation in respect of any application that he or she has previously been involved in at Stage I;</p> | <p>LOCAL PENSION
COMMITTEE
28/02/20</p> |
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- (c) delegate the functions in (a) and (b) above to an external person or body where the Director considers this to be appropriate, in particular where it is necessary to avoid any potential conflict of interest.

[Note – The Director of Corporate Resources holds a delegated power to act, where appropriate, in cases where the Director of Law and Governance is unable to do so.]

Member and Other Appointments

6. Appointments to relevant Bodies including substitutes

Power to the Chief Executive to make and terminate appointments to relevant County Council bodies (not including the Cabinet) in accordance with the wishes of the political Group to whom the seat in question has been allocated, subject in the case of those bodies appointed by the Council itself the Group giving one clear working day's written notice to the Chief Executive of its wishes.

COUNTY COUNCIL
ANNUAL MEETING

7. Appointments to Outside Bodies

Power to the Chief Executive, after consultation with the Leader and Deputy Leader or their nominees, to approve appointments to outside bodies not covered by other delegations.

CABINET
14/06/11

8. Honorary Aldermen

Power to the Chief Executive to take all necessary action relating to the appointment by the Council of Honorary Aldermen and the participation of Honorary Aldermen in civic ceremonies and similar events.

COUNTY COUNCIL
13/07/05

Member Conduct Matters

9. Member Conduct Complaints Procedures

Power to the Director of Law and Governance:

- (a) to exercise such powers as are necessary to give effect to the 'Procedure for dealing with allegations of a breach of the Members' Code of Conduct' in force for the time being;

CORPORATE
GOVERNANCE
COMMITTEE
24/09/12

- (b) to introduce such further procedures, guidelines and guidance notes as he/she considers necessary to support the Council's arrangements for dealing with allegations of a breach of the Members' Code of Conduct;
- (c) following consultation with the Chairman and Spokesmen of the Corporate Governance Committee, to amend the 'Procedure for dealing with allegations of a breach of the Members' Code of Conduct' approved by the Corporate Governance Committee on 29 September 2012 (as amended);
- (d) to make such temporary appointments from amongst people serving as independent persons of a different relevant authority as he/she considers necessary, whose views may be sought and taken into account in relation to allegations of a breach of the Members' Code of Conduct for a particular case or period of time, in accordance with any statutory provisions in force for the time being.

COUNTY COUNCIL
04/07/12

10. **Dispensations**

Power to the Director of Law and Governance, after consultation with the Chairman and Spokesmen of the Corporate Governance Committee, to grant dispensations to members in accordance with legislation in force from time to time.

CORPORATE
GOVERNANCE
COMMITTEE
29/09/12

Personnel Matters

11. **Reimbursement of Expenses as a result of injury**

Power to the Chief Executive to deal with claims for the reimbursement of expenses reasonably incurred by employees as a result of an injury occurring during the course of their duties.

EMPLOYMENT
COMMITTEE
30/06/11

Land and Property

12. **Rent Arrears**

Power to the Director of Law and Governance to take court proceedings to recover arrears of rent or due payments by occupiers of properties under the control of the County Council.

CABINET
14/06/11

13. **Requests for Information**

Power to the Director of Law and Governance to exercise any rights of the County Council to require information as to interests in land subject to compliance with the relevant legislation in force for the time being.

CABINET
14/06/11

14. **Joint Venture Agreements**

Power to the Director of Law and Governance, subject to prior consultation with the Lead Member for Resources, to sign and the Director of Corporate Resources to agree terms of any Joint Venture Agreements or other development, partnership or collaboration agreement which is considered necessary in connection the development of County Council land or property.

CABINET
24/03/20

Highway and Rights of Way Matters

15. **Blight and Purchase Notices**

Power to the Director of Law and Governance to accept blight notices and purchase notices arising as a result of decisions of the Highway Authority, subject to the concurrence of the Director of Environment and Transport and subject to officers being satisfied that the Council is legally bound to comply with the notice.

CABINET
14/06/11

16. **Countryside and Rights of Way Act 2000 – Crime Prevention and School Security in Relation to Rights of Way.**

Power to the Chief Executive, in consultation with the Director of Adults and Communities, to consider the nature and magnitude of reported problems of crime and disorder inasmuch as they are relevant to this legislation and establish procedures for implementing its provisions.

CABINET
14/06/11

17. **Maintenance and Minor Improvements**

Power to the Director of Law and Governance to enter into Agreements under Sections 4 and 6 of the Highways Act 1980 where the Director of Environment and Transport approves the proposed works and costs to be incurred by the County Council (if any) are within the Director’s delegated powers.

CABINET
14/06/11

18. **Vesting of Former Highway Land - Leicestershire Act 1985, Section 11**
- Power to the Director of Law and Governance, subject to consultation with the Director of Environment and Transport, to exercise the functions of the County Council under Section 11 of the Leicestershire Act 1985. CABINET
14/06/11
19. **Removal of Itinerants/Gypsies and Travellers**
- Power to the Director of Law and Governance to take action to secure the removal of unauthorised encampments in accordance with the provisions of the Multi-Agency Traveler’s Unit Agreement. CABINET
14/06/11

Planning, Historic and Natural Environment Matters

20. **Planning Applications, Hazardous Substances Consents, Environmental Permits and Listed Buildings Consents**
- Power to the Chief Executive to comment on and/or to determine: DCRB
12/03/20
- (a) applications for planning permission (including approval of reserved matters and approval of matters controlled by planning condition);
 - (b) applications to vary planning conditions;
 - (c) applications for non-material amendments to planning permissions;
 - (d) the grant or continuation of hazardous substances consents;
 - (e) environmental permits;
 - (f) applications for works to listed buildings;
- except where:
- (i) the application is contrary to a site allocation policy within the County Council’s adopted or draft development plan;
 - (ii) the planning application is supported by an Environmental Impact Assessment;
 - (iii) more than four objections from local residents

and/or businesses, raising material planning considerations, have been received during the statutory consultation period. In the event of an objection being received which appears not to relate to a material planning consideration, the Director of Law and Governance after consultation with the Chairman and Spokespersons of the Development Control and Regulatory Board shall determine its relevance and whether it would be appropriate to refer the matter for determination by the Board;

- (iv) the elected local member has indicated in writing within 21 days of notification that the application should be submitted to the Board for determination;
- (v) the recommendation is subject to the signing of a Section 106 planning agreement.

21. **Environmental Impact Assessments**

Power to the Chief Executive to decide whether an Environmental Impact Assessment is required and/or the scope of any Environmental Impact Assessment in respect of any planning application (or pre-application) submitted to the County Council.

DCRB
12/03/20

22. **Enforcement Action**

Power to the Chief Executive to:

DCRB
12/03/20

- (a) authorise and issue Enforcement Notices, Stop Notices, Temporary Stop Notices, Planning Enforcement Orders, Planning Contravention Notices, Breach of Condition Notices and apply for injunctions and all necessary consequential legal proceedings, both civil and criminal;

[Note: A schedule of all action taken under this power will be presented to the Board thereafter]

- (b) enter premises for the purpose of enforcing the control of hazardous substances pursuant to the relevant legislation in force for the time being.

DCRB 23/06/11

23. **Rights of Entry – Town and Country Planning**

Power to the Chief Executive to exercise any right of entry onto land which is exercisable by the County Council in order to survey and/or carry out work

DCRB
12/03/20

which is considered necessary in order to carry out a delegated function, subject to compliance with the relevant legislation in force for the time being.

24. **Development Management – Town and Country Planning**

Power to the Chief Executive to: DCRB
18/03/10

- (a) determine which applications should be referred to the County Council for consultation under Schedule 1 of the Town and Country Planning Act 1990 and to notify District Councils of any such determination;
- (b) issue directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). DCRB
12/03/20

25. **Strategic consultations**

Power to the Chief Executive to: CABINET
24/03/20

- (a) respond to district councils, neighbouring authorities, statutory undertakers and government departments on behalf of the County Council, except where the proposal:
 - (i) would result in a development that conflicts with a site allocation within an adopted development plan for which the Council is responsible;
 - (ii) is considered to be of strategic importance;
 - (iii) the local member has requested in writing within 21 days of notification that the proposal should be considered by the Development Control and Regulatory Board and any recommendation considered by the Cabinet.
- (b) respond to strategic consultations from Mineral and Waste Planning Authorities on their Local Aggregate Assessments (including the potential provision of aggregates from Leicestershire) and the management of waste, on the basis that where there appears to be significant policy implications for the County Council the matter will be referred to the Cabinet.

26. **Amendment of Planning Conditions**

Power to the Director of Law and Governance, following consultation with the Chairman and Spokespersons of the Development Control and Regulatory Board (the Board), to make non-substantial amendments to conditions imposed by the Board as part of its decision to grant planning permission for an application provided that such changes are not material and do not raise significant new issues requiring referral back to the Board.

DCRB
12/03/20

27. **Planning Agreements under Section 106 of the Town and County Planning Act 1990**

Power to the Director of Law and Governance:

DCRB
12/03/20

- (a) to negotiate, agree and complete agreements under Section 106 of the Town and County Planning Act 1990 and any other statutory provision reasonably required to give effect to a planning obligation requested by the County Council in response to a planning application consultation, provided that where that request is not likely to be met either in whole or in part in that agreement, the relevant Lead Member will first be consulted;
- (b) following consultation with the Chairman and Spokespersons of the Development Control and Regulatory Board, to make non-substantial amendments to the provisions of a proposed agreement under Section 106 of the Town and County Planning Act in respect of a County Council planning application which have been previously approved by the Board.

28. **Wildlife and Countryside Act 1981**

Power to the Director of Law and Governance to institute proceedings for alleged offences under the Wildlife and Countryside Act 1981.

CABINET
14/06/11

29. **Commons and Village Greens**

Power to the Director of Law and Governance to exercise the functions as registration authority under the relevant legislation in force for the time being in relation to commons and village greens.

DCRB
23/06/11

30. **Statements of Common Ground**

<p>Power to the Chief Executive to agree the County Council's response to consultations on Statements of Common Ground and to the County Council becoming a signatory to Statement of Common Ground documents with Leicestershire district councils, Leicester City Council and other neighbouring authorities except where these are considered to be of strategic importance to or have significant policy implications for the Authority, in which case the matter will be referred to the Cabinet.</p>	<p>CABINET 14/12/21</p>
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Education Matters

31. **School Standards and Framework Act 1998**

<p>Power to the Chief Executive to seal any new or amended Instruments of Government to take account of the establishment or alteration of schools or any changes in the composition of a governing body for whatever reason.</p>	<p>CABINET 14/06/11</p>
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32. **Appeal Committee Arrangements**

<p>Power to the Director of Law and Governance to take all action in compliance with any current national Code of Practice and in compliance with any current statutory requirements, in connection with the receipt and handling of admission and exclusion appeals, and the recruitment, training and appointment of appeal panel members.</p>	<p>CABINET 14/06/11</p>
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Regulatory Services and Trading Standards

33. **Regulatory and Trading Standards Services – Functions and Responsibilities**

<p>(a) Power to the Head of Regulatory Services to:</p>	<p>CABINET 24/03/20</p>
<p>(i) authorise and/or direct officers of this Authority and/or or any other East Midlands authority to carry out investigations (including the taking of samples and making test purchases), to issue warrants and/or credentials, to carry out enforcement, and to issue notices or give directions in accordance with legislation in</p>	<p><i>Amended by the Chief Executive under delegated powers 29/07/20</i></p>

force for the time being and, subject to the concurrence of the Director of Law and Governance, to institute, prosecute, appear in and defend proceedings (both civil and criminal) and issue fixed penalty notices in accordance with the approved enforcement policy;

[Note: this delegation has been reviewed and updated to reflect additional enforcement responsibilities arising from the Covid-19 pandemic, and in particular the responsibilities to respond to a serious and imminent threat to public health in accordance with The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020]

- (ii) to nominate staff to institute, prosecute or appear in legal proceedings for parallel offences committed outside of the County;
- (iii) to make such appointments as are necessary in accordance with legislation in force for the time being including Public Analysts, Agricultural Analysts and the Chief Inspector of Weights and Measures.

- (b) Power to the Chief Executive to enter into arrangements to delegate functions contained in legislation in respect of Trading Standards matters to another authority;

[Note: A list of relevant legislation is retained within Regulatory Services.]

34. **Regulation of Investigatory Powers Act 2000 (RIPA)**

- (a) Power and responsibility to the Director of Law and Governance as Monitoring Officer for monitoring authorisations by officers of the County Council and for maintaining records generated by the operation of the Act;
- (b) Power to the Director of Law and Governance to designate officers to grant authorisations under the RIPA.

CABINET 14/06/11

Health

35. Health and Social Care Integration

Power to the Chief Executive, following consultation with the Cabinet Lead Members, to undertake any actions and/or decisions necessary to progress activities or projects within the health and social care integration programme.

CABINET
11/05/15

[Note: Actions and/or decisions taken by the Chief Executive under this delegation are to be included in the annual report to the Cabinet on progress with the health and social care integration programme]

36. NHS Sustainability and Transformation Plan

Power to the Chief Executive, following consultation with the Cabinet Lead Member for Health to take such operational decisions as may be necessary to enable delivery of the Sustainability and Transformation Plan.

CABINET
13/12/16

Court Proceedings

37. Authority to Represent the County Council in Magistrates Courts

Power to the Director of Law and Governance to authorise staff to prosecute, defend or appear in proceedings before Magistrates' Courts on behalf of the County Council under Section 223 of the Local Government Act 1972.

CABINET
24/03/20

38. Libraries Bye-Laws

Power to the Director of Law and Governance to institute proceedings in respect of the breach of Libraries Bye-Laws.

CABINET
14/06/11

Registrar Matters

39. Civil Partnerships

Power to the Chief Executive to nominate officers to act as civil partnership registrars and as authorized persons for the purpose of attesting notices of proposed civil partnerships.

CABINET
09/03/10

GENERAL MATTERS

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| 40. | <u>Minibus Permits</u> | Power to the Chief Executive to issue permits in respect of large vehicles to bodies which assist or co-ordinate the activities of bodies listed in columns 2 and 3 of the Schedule to section 19 of the Minibus (Designated Bodies) Order 1987. | CABINET
24/0203 |
| 41. | <u>Charities</u> | Power to the Chief Executive to exercise the functions of the County Council under the legislation in force for the time being in respect of registered charities. | CABINET 09/03/10 |
| 42. | <u>Broadband</u> | Power to the Chief Executive, after consultation with the Leader of the County Council and the Director of Law and Governance, to take all actions and/or decisions he considers necessary to give effect to any matter relating to the deployment of improved broadband connectivity within Leicestershire. | CABINET
16/01/13, 15/07/14,
and 23/06/17 |