

SECTION 5 - SCHEME OF DELEGATION

5.1 The Council is required to make very many executive and non-executive decisions every day. It would be quite impracticable to make all or many of these decisions through full Council, the Cabinet and other Council bodies. The full Council, Cabinet and, under the Council's new executive arrangements from June 2009, the Leader, are able to delegate powers to the Cabinet, individual Cabinet Members and to Officers. Such powers are called "delegated powers" and the distribution of responsibility amongst the Leader of the Council, Cabinet Members and Officers for making decisions under delegated powers is set out in this Scheme. Such powers must be exercised in accordance with the conditions specified in paragraphs 5.2 to 5.8 below.

This scheme does not delegate to the Leader of the Council, Cabinet Members and Officers:

5.1.1 Except under delegation CE1 any matter reserved to full Council (see Tables 1 and 2 of this Part of the Constitution);

5.1.2 Any matter that by law may not be delegated to the Leader of the Council, a Cabinet Member or Officer.

5.2 Delegated powers must be exercised in accordance with:

5.2.1 The law;

5.2.2 All of the rules, procedures, codes and protocols contained in the Council's Constitution;

5.2.3 Council policy.

5.3 Before exercising delegated powers, the Leader of the Council, Cabinet Members and Officers must satisfy themselves that the decision is:

5.3.1 Authorised by law and, if in doubt, will consult with the Director of Law and Administration;

5.3.2 Within budget (allowing for such variance as may be permitted under the Council's Financial Regulations) and if in doubt will consult with the Director: Strategic Finance.

5.4 Before exercising delegated powers the Leader of the Council, Cabinet Members and Officers must consider whether it would be advantageous and/or prudent to consult with the Leader of the Council, another Cabinet Member or any other Member of the Council and/or Officer, and whenever they consult with another will carefully consider any response that they receive. In any event, consultation will always be required with all persons referred to in the column "Consultation under paragraph 5.4" in the table below headed Particular Delegations to Officers and in accordance with paragraph 5.9.

5.5 Before exercising delegated powers, Officers will consider whether the use of a power might be regarded as sensitive or contentious by Members of the Council and if it appears that this will be the case, they will:

- 5.5.1 In respect of any executive function, consult with the Leader of the Council or Cabinet Member with responsibility for that area;
- 5.5.2 In respect of any non-executive function, consult with the Chair and other political groups' Lead Members of the committee having responsibility for that matter and any Member of the Council whose electoral division will be affected by the exercise of delegated powers.
- 5.6 In the absence of a Cabinet Member or if a Cabinet Member is unable to or should not exercise a delegated power, the Leader of the Council may exercise that delegated power.
- In the absence of the Leader of the Council or if the Leader of the Council is unable to or should not exercise a delegated power or other power under the Constitution, any Cabinet Member or the Cabinet may exercise those powers.
- 5.7 The Officers named in this scheme shall be deemed to include any other Officer of the Council that they authorise in writing to exercise delegated powers on their behalf provided:
- 5.7.1 An Officer named in this scheme must maintain a written record of any other Officer they have authorised to exercise delegated powers on their behalf and any limitation that they have imposed on the extent and duration or other exercise of those powers in addition to those specified in this scheme;
- 5.7.2 A copy of the information specified in paragraph 5.7.1 must be given to the Monitoring Officer before another Officer exercises a power on behalf of a named Officer and the Monitoring Officer shall place this information on a register that, in accordance with Section 100G of the Local Government Act 1972, will be maintained for inspection by the public.
- 5.8 The Leader of the Council and Cabinet Members in relation to all decisions they take and Officers in relation to decisions they take in the exercise of delegated powers where the financial implications exceed £250,000 or where the decision is politically sensitive must maintain a complete and permanent written record of their decisions, which must (as a minimum) include:
- 5.8.1 A dated record of that decision;
- 5.8.2 A record of the reasons for the decision;
- 5.8.3 Details of any alternative options considered and rejected at the time by the person when making the decision;
- 5.8.4 A record of any conflict of interest declared by any Executive Member who is consulted in relation to the decision; and
- 5.8.5 In respect of any declared conflict of interest a note of any dispensation granted by the Head of Paid Service of the Council.
- Note: Records of all decisions by Members and of key decisions by Officers are required to be available for public inspection after the decision has been taken, in the same way as Cabinet papers*

- 5.9 There shall be delegated to the Leader of the Council and each Cabinet Member all executive functions, duties or powers of the Council within his or her area of responsibility as specified in paragraph 4.4 of Section 4 of the Constitution. In exercising such functions, duties or powers, the Leader and Cabinet Members will consult with the Director or Head of any service area affected by their decision.
- 5.10 The functions, powers and duties identified in the table below headed “Particular Delegations to Officers” are delegated to Officers of the Council. Any Officer referred to in the “Appropriate Officer” column of the table below and to whom powers have been delegated, shall include any other person subsequently taking on that Officer’s responsibilities.
- 5.11 The Commissioning Director: Children and Families has responsibility for the statutory functions of the Director of Children's Services in accordance with Section 18 of the Children Act 2004.
- 5.12 The Officer designated as Director of Adult Social Services in accordance with Section 6(A1) of the Local Authority Social Services Act 1970 (as inserted by paragraph 2(2) of Schedule 2 to the Children Act 2004) is the Commissioning Director: Adults.

Particular Delegations to Officers

Decision Category Number	Function, duty or power to be delegated	Appropriate Officer	Consultation under paragraph 5.4
CE1	To take any decision that could be taken by the Council, the Cabinet, any committee or any Officer (provided such action is taken in accordance with the law, Rules on Access to Information about the County Council’s Business and the Cabinet Procedure Rules).	Chief Executive.	Council function - Chairman and Leader of the Council. Cabinet function - Leader of the Council or Cabinet Member, as appropriate. Committee function - Chairperson and Lead Members
CE2	To be the Proper Officer of the County Council, Section 270(3) of the Local Government Act 1972.	Chief Executive	<u>N/A</u>

APPENDIX A

CE3	To fill casual vacancies on committees, in accordance with Sections 15-17 of the Local Government & Housing Act 1989.	Chief Executive	Group leader of the political group entitled to appoint a Member to any committee by virtue of any vacancy that has arisen
CE4	To be the Returning Officer for County Council elections and undertake the functions of the Council in relation to elections.	Chief Executive	N/A
CE5	To permanently appoint, determine the terms of appointment and terminate the appointment of all staff (except those Officers within the responsibility of the Appointments Committee) under Section 112 of the Local Government Act 1972; and	Chief Executive	Director of People's Services
	<p>To appoint on a temporary or acting up basis for up to one year, determine the terms of appointment and terminate the appointment of those Officers within paragraph 2 of the duties of the Appointments Committee.</p> <p>To appoint on an interim basis and for a maximum period of up to six months to the positions of those officers within paragraph 2 of the duties of the Appointments Committee.</p>		<p>Relevant Cabinet Member, Group Leaders and relevant Scrutiny Chair</p> <p>Relevant Cabinet Member, Group Leaders and relevant Scrutiny Chair</p>
DSF 1	To be responsible for and do anything required for the proper administration of the financial affairs of the Council.	Director: Strategic Finance	N/A

APPENDIX A

DSF 2	To make arrangements for the financing of the capital programme of the Council by borrowing, leasing or other arrangements.	Director: Strategic Finance	Leader of the Council or Cabinet Member, as appropriate.
DSF 3	The functions, duties or powers of the Pensions Committee.	Director: Strategic Finance	Relevant Cabinet Member for all decisions with financial implications over £250,000
DSF 4	To formulate and issue general guidelines to Officers on financial matters including insurance and the writing-off of debts.	Director: Strategic Finance	N/A
DSF 5	To determine arrangements for treasury management in accordance with the Council's policy statement and approved treasury management practices and where relevant CIPFA's Standard of Professional Practice on Treasury Management.	Director: Strategic Finance	N/A
DSF 6	To make arrangements for the Internal Audit of the Council.	Director: Strategic Finance	N/A
DSF 7	To manage the County Fund and all subsidiary accounts and any reserve or other fund.	Director: Strategic Finance	N/A
DSF 8	To operate the Local Government Superannuation Regulations, including the exercise of discretion under those Regulations.	Director: Strategic Finance	Relevant Cabinet Member for decisions with financial implications over £250,000
DSF 9	To implement national and local pay awards and increase payments under the Pension Increase Act.	Director: Strategic Finance	N/A

APPENDIX A

DSF 10	To make finance leasing arrangements and authorise and make any other financial transaction including the borrowing and lending of money.	Director: Strategic Finance	Relevant Cabinet Member for decisions with financial implications over £250,000
DSF 11	To authorise the writing-off of stock, other than through fair wear and tear.	Director: Strategic Finance	N/A
DSF 12	To effect adequate insurance cover for the Council.	Director: Strategic Finance	N/A
DSF 13	To exercise all other functions relating to the Financial Management of the Council.	Director: Strategic Finance	N/A
Dep CE 1	To acquire and dispose of any interest in land and manage the Council's estate.	Deputy Chief Executive	Director: Strategic Finance and Relevant Cabinet Member for all transactions with financial implications over £250,000
Dep CE 2	The functions of the Safety & Licensing Committee under paragraphs 2 and 3 of its terms of reference.	Deputy Chief Executive	N/A
Dep CE 3	To manage the provision of information technology services to the Council.	Deputy Chief Executive	N/A
Dep CE 4	To exercise all other functions relating to the Support Services within Enabling & Transition save those within decision categories DSF 1 to 13. This power shall include the power to do anything necessary to secure the proper management of the Council's human resources except for functions falling within decision category CE5 but shall not include decision category HLDS 1 and 2.	Deputy Chief Executive	N/A

APPENDIX A

D:S & C 1	To publish standards for the whole Council, which will secure the efficient processing of information.	Director: Strategy and Challenge	N/A
D:S & C 2	To exercise all other functions relating to the following services: Performance & Need; Communications and Engagement; Information Management and Archives and the Executive and Cabinet Offices.	Director: Strategy and Challenge	N/A
CFO 1	To manage the operations of the Gloucestershire Fire and Rescue Service.	Chief Fire Officer	Most relevant Cabinet Member(s) or Chief Executive for all decisions with financial implications over £250,000
CD: C & I 1	The functions of the Safety and Licensing Committee except those within paragraphs 2, 3, 4 and 7 of its terms of reference and decision categories HLDS1 and 2.	Commissioning Director: Communities & Infrastructure.	N/A
CD: C & I 2	To enforce the Trading Standards, Food, Animal Health and other legislation referred to in the Trading Standards Legislation Master Lists A to D held by the Director of Law & Administration and issue statutory notices in relation to that legislation	Commissioning Director: Communities & Infrastructure	N/A
Head of Trading Standards	Without prejudice to the powers of the Commissioning Director: Communities & Infrastructure to sign warrants and authorise Officers to enforce the legislation referred to in the Trading Standards Legislation Master Lists A to D held by the Director of Law & Administration and issue statutory notices in relation to that legislation	Head of Trading Standards	N/A

APPENDIX A

CD: C & I 3	To exercise the functions of the Commons and Rights of Way Committee as Local Highway Authority Commons and Rights of Way Committee terms of reference 3 to 19.	Commissioning Director: Communities & Infrastructure	N/A
CD: C & I 4	To be the Proper Officer in relation to functions under the Highways Act 1980.	Commissioning Director: Communities and Infrastructure	N/A
CD: C & I 5	To exercise the functions falling within Planning Committee terms of reference 1 to 14 and 16 to 25, except decision categories HLDS1 and 2 of this Scheme of Delegation.	Commissioning Director: Communities & Infrastructure. (Note: Where the Director is an Officer whose responsibilities include any aspect of the management of any land or building to which an application made by the Council relates, or is responsible for a function (other than as planning authority) materially affected by any planning matter, this power is delegated to the appropriate senior officer).	Director of Law and Administration.
CD: C & I 6	To exercise the functions of the Traffic Regulation Committee (terms of reference 1 to 12), except those falling within decision categories HLDS1 and 2 of this Scheme of Delegation.	Commissioning Director: Communities & Infrastructure.	Director of Law and Administration.

APPENDIX A

CD: C & I 7	To exercise all other functions relating to the areas of responsibility of the following services: Development, Planning, Transport & Community Infrastructure, Road Safety, Trading Standards, Civil Protection, Registration & Coroners, Libraries and Waste Management except decision categories CFO 1, HLDS1 and 2 (although, in cases when only an Officer other than the Director of Law and Administration may institute proceedings, the Commissioning Director: Communities & Infrastructure may institute a prosecution once it has been authorised under HLDS2).	Commissioning Director Communities and Infrastructure	Relevant Cabinet Member for all decisions with financial implications over £250,000.
CD: A 1	The functions of the Safety and Licensing Committee under paragraph 7 of its terms of reference.	Commissioning Director: Adults.	N/A
CD: A 2	To exercise all other functions relating to the areas of responsibility of Adult Social Care except decision category HLDS1 and 2.	Commissioning Director: Adults	Most relevant Cabinet Member(s) for all decisions with financial implications over £250,000.
CD: C & F 1	The functions of the Safety and Licensing Committee under paragraph 4 of its terms of reference.	Commissioning Director: Children & Families.	N/A
CD: C & F 2	To exercise all other functions relating to the areas of responsibility of Children's Services, Education and Learning except decision category HLDS1 and 2.	Commissioning Director: Children & Families	Most relevant Cabinet Member(s) for all decisions with financial implications over £250,000.

APPENDIX A

HLDS1	To authorise the institution, defence withdrawal or settlement of any claims or legal proceedings, civil or criminal, the issue of cautions and to authorise the enforcement of any order made in those proceedings.	Director of Law and Administration.	Director of any service area affected by such a decision.
HLDS2	To authorise Officers of the County Council to prosecute or defend or appear in any legal proceedings (NB: The Director of Law and Administration will <i>authorise</i> every decision to prosecute or defend such proceedings, including those which by law may only be <i>instituted</i> by another Officer).	Director of Law and Administration	Director of any service area affected by such a decision
HLDS3	To authorise the withdrawal or settlement of any dispute between the Council and any third party, including those that have been referred to any statutory or non-statutory Tribunal or arbitrator (this includes authorising ex gratia payments not otherwise delegated).	Director of Law and Administration	Director of any service area affected by such a decision.
HLDS4	To be the local referee for disputes under the Local Government Pension Scheme.	Director of Law and Administration	N/A
HLDS5	To make payments or award other benefits under Section 92 of the Local Government Act 2000 (payments in respect of maladministration and related discretionary payments).	Director of Law and Administration	Chief Executive and/or Director responsible for the service in respect of which a payment or other benefit is awarded and Director: Strategic Finance.

APPENDIX A

HLDS6	The functions of the Commons and Rights of Way Committee under paragraphs 1, 2 and 19 of its terms of reference.	Director of Law and Administration	Lead Members
HLDS7	To amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, efficient and effective discharge of any Council function. Such amendment shall be reported to the Constitution Committee and reported to and ratified by the full Council (in respect of any non-executive function) or the Cabinet (in respect of any executive function).	Director of Law and Administration	Chief Executive and any Director whose service is affected by any amendment to the Constitution.
HLDS8	The functions of the Constitution Committee to advertise for, interview and appoint persons as members of an Independent Remuneration Panel.	Director of Law and Administration	Lead Members of the Constitution Committee.
GEN1	To enter into any contract for works and the supply of goods and services.	Chief Executive and Directors or Head of Service in relation to their service areas.	Director of Strategic Procurement and relevant Cabinet Member for decisions with financial implications in excess of £250,000.
GEN2	To take any decision under the Regulation of Investigatory Powers Act 2000.	Directors or Head of Service in relation to their service areas.	N/A
GEN3	To do anything that is required for the effective management of staff and other resources within each Service of the Council.	Directors or Head of Service in relation to their services areas.	N/A

SECTION 6 - GENERAL STATEMENT OF POLICY BY THE LEADER, THE FULL COUNCIL AND THE CABINET IN RESPECT OF THE DISTRIBUTION OF FUNCTIONS TO THE FULL COUNCIL, COUNCIL BODIES, CABINET MEMBER AND OFFICERS

The Council, the Leader and Cabinet intend that Officers should be able to exercise any duty or power that could be exercised by them or any Council body. Accordingly, where the law confers a function, duty or power on the Authority but no Officer has been expressly authorised to exercise that function, duty or power under the Scheme of Delegation, the Council, the Leader and Cabinet (insofar as it is within their remit) hereby authorise any Director and any person authorised by any of them, to exercise that function, duty or power on behalf of the Authority.

Note: Where an Officer has been expressly authorised to exercise a function, duty or power, only that Officer and any other Officer authorised in accordance with paragraph 5.7 of Section 5, can exercise that function, duty or power.

