

## KIRKLEES COUNCIL

### SCHEME OF DELEGATIONS FROM THE COUNCIL'S EXECUTIVE & COUNCIL BODIES TO THE SERVICE DIRECTOR – LEGAL, GOVERNANCE AND COMMISSIONING

<i>Date last reviewed</i>	<i>September 2021</i>
<i>Approved by</i>	<i>Rachel Spencer Henshall</i> Strategic Director – Corporate Strategy and Public Health
<i>Date Approved</i>	<i>20<sup>th</sup> October 2021</i>
<i>Version No.</i>	
<i>Review Date</i>	<i>September 2022</i>
<i>Directorate contact officer</i>	<i>Julie Muscroft - Service Director - Legal, Governance and Commissioning</i>

# LEGAL, GOVERNANCE AND COMMISSIONING

## DELEGATED POWERS

### Purpose

To set out the delegations from the Service Director for Legal, Governance & Commissioning in accordance with the requirements of paragraph 6 of Part 3 Section F of the Council's Constitution.

### Related Policies & Documents

- Council Constitution (Part 2: Article 13: Decision Making) - <http://www.kirklees.gov.uk/you-kmc/constitution/articles/art13.pdf>
- Council Constitution (Part 3: Responsibility for Functions) - <http://www.kirklees.gov.uk/you-kmc/constitution/ConstitPart3.pdf>
- Council Constitution (Part 4.6: Financial Rules & Procedures) – <http://www.kirklees.gov.uk/you-kmc/constitution/rules/rules6.pdf>

## **Key Statutes/Legislation**

Legislation applied in the delegated decisions specified in this document includes the following:

- Local Government Act 1972
- County Courts Act 1984
- Representation of the People Act 1983
- Political Parties, Elections and Referendums Act 2000 and 2009
- Electoral Registration and Administration Act 2013
- Local Authorities (Members' Allowances) (England) Regulations 2003
- Local Government Pension Scheme and Discretionary compensation (Local Authority Members in England) Regulations 2003.
- Local Government Finance Act 1988
- Local Government Finance Act 1992
- Social Security Administration Act 1992
- Child Support Pensions and Social Security Act 2000
- Regulation of Investigatory Powers Act 2000
- Chronically Sick and Disabled Persons Act 1970
- Education Act 1996
- Proceeds of Crime Act 2002

## **Who is governed by this policy?**

The scheme of delegations will apply to all permanent, contract and temporary officers working for the Council.

## Summary

The Council's Constitution requires that each Strategic Director, the Service Director – Legal, Governance & Commissioning, and the Service Director – Finance, will prepare service schemes of delegation which set out how decisions will be made in each of the Services for which they are responsible. Such schemes should clearly identify which officers have been authorised to make decisions under the delegated powers of the Director. All schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.

Officers may only exercise the powers delegated to them in accordance with all relevant statutory requirements, the provisions of the Council's Constitution, the revenue and capital budgets of the Council, its Procurement Code, Financial Regulations and other relevant policies and procedures.

Delegation is simply a way of allocating matters to the levels appropriate to ensure that the Directorate's business is dealt with in the most efficient way possible. Delegated power will normally be exercised at the lowest level to which it has been given. However, all such powers will also be held by the Director.

Where an officer post to which any function has been delegated is renamed or is affected by a staffing re-organisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same relevant duties as the original post following that re-organisation.

In exercising the powers delegated to them officers must observe any additional procedural requirements that apply within their services e.g. any requirement to consult local ward councillors, cabinet members and/or the leader. It is also good practice to keep local ward councillors informed of decisions made and implemented under delegated powers that significantly affect members of the community in their ward.

## Scheme of Delegation & Decision Making (Legal Services)

Responsibility	Assistant Legal Officer	Legal Officer	Senior Legal Officer (A/B)	Senior Legal Officer (C)	Head of Legal Services*	Business Support Manager	Finance/ Admin Officer	Other nominated officer
To give undertakings on behalf of the Council <sup>i</sup>	✓	✓	✓	✓	✓			
To swear affidavits and statutory declarations in the discharge of the Council's functions	✓	✓	✓	✓	✓			
To apply the Council's common seal in accordance with Article 14.5 of the Constitution and to sign documents that are not required to be under seal			✓**	✓	✓			
To prosecute (including Single Justice Procedure actions), defend or appear on the Council's behalf before a Magistrates' Court – Section 223(1) Local Government Act 1972	✓	✓	✓	✓	✓			✓ <sup>ii</sup>
To conduct the following actions on behalf of the Council in the County Court before a District Judge – Section 60 County Courts Act 1984 <ul style="list-style-type: none"> <li>The recovery of possession of houses or other property belonging to the Council</li> </ul>	✓	✓						✓ <sup>iii</sup>

Responsibility	Assistant Legal Officer	Legal Officer	Senior Legal Officer (A/B)	Senior Legal Officer (C)	Head of Legal Services*	Business Support Manager	Finance/Admin Officer	Other nominated officer
<ul style="list-style-type: none"> <li>The recovery of any rent, mesne profits, damages or other sum claimed by the Council in respect of the occupation by any person of such a house</li> </ul>								
To appear on the Council's behalf before a County Court			✓ <sup>iv</sup>	✓ <sup>v</sup>	✓ <sup>vi</sup>			
To appear on the Council's behalf in chambers in the County Court	✓	✓	✓	✓	✓			
To appear on the Council's behalf in chambers in the High Court			✓	✓	✓			
To instruct Counsel and professional advisers <sup>vii</sup>	✓	✓	✓	✓	✓			
To sign contracts for the procurement of supplies of £100,000 or more in accordance with Contract Procedure Rule 10.5 (legal officers)			✓ <sup>**</sup>	✓	✓			
To sign the following specific or specialist contracts for supplies of £100,000 or more in accordance with Contract Procedure Rule 10.6 (non-legal officers): (a) Housing Related Support (b) Domiciliary Care Services								✓ <sup>viii</sup>  ✓ <sup>ix</sup>

Responsibility	Assistant Legal Officer	Legal Officer	Senior Legal Officer (A/B)	Senior Legal Officer (C)	Head of Legal Services*	Business Support Manager	Finance/Admin Officer	Other nominated officer
(c) Personal Care Services in a Care Home								✓ <sup>x</sup>
(d) Assisted Living Framework Agreement for provision of maintenance services								✓ <sup>xi</sup>
(e) Alternative education places for persons excluded from school in KS4								✓ <sup>xii</sup>
(f) Employment Service for individuals in recovery from substance misuse								✓ <sup>xiii</sup>
(g) Independent mental capacity advocate service and relevant persons representative service								✓ <sup>xiv</sup>
<p>To sign the following documentation on behalf of the Council in accordance with Contract Procedure Rule 9.1:</p> <p>(a)</p> <ul style="list-style-type: none"> <li>• Site licences (trial pits and boreholes)</li> <li>• Site compound licences</li> <li>• Wayleave agreements</li> </ul>								✓ <sup>xv</sup>

Responsibility	Assistant Legal Officer	Legal Officer	Senior Legal Officer (A/B)	Senior Legal Officer (C)	Head of Legal Services*	Business Support Manager	Finance/Admin Officer	Other nominated officer
<ul style="list-style-type: none"> <li>Garden tenancies</li> <li>Allotment agreements</li> <li>Parking space licences (garage sites only)</li> <li>Garage site licences (may erect garage)</li> <li>Privilege agreements (rights of way/hanging ground/gates/openings)</li> <li>Grazing licences/tenancies</li> <li>Caravan site licences</li> <li>Bonfire site licences</li> </ul>								
(b) <ul style="list-style-type: none"> <li>Licences authorising occupation of units in the Council's Business Centres</li> </ul>								✓ <sup>xvi</sup>
(c) <ul style="list-style-type: none"> <li>Licences authorising occupation of stalls in the Council's Open Markets</li> </ul>								✓ <sup>xvii</sup>
Certification of payments up to £3000 from the Legal Services cheque book			✓	✓	✓			
Signing cheques from the Legal Services cheque book up to £3000				✓ <sup>xviii</sup>	✓	✓		
Certification of invoice payments up to £3000			✓	✓	✓	✓	✓	✓ <sup>xix</sup>



Responsibility	Assistant Legal Officer	Legal Officer	Senior Legal Officer (A/B)	Senior Legal Officer (C)	Head of Legal Services*	Business Support Manager	Finance/Admin Officer	Other nominated officer
Certification of invoice payments up to £20,000					✓	✓		
Certification of invoice payments up to £100,000					✓			
Signing of loan certificates				✓ <sup>xx</sup>	✓			
Authorisation of the transfer of funds for the acquisition of land/buildings up to £500,000					✓			

\*Head of Service includes Head of Legal as well as Legal Heads of Commercial and Safeguarding Teams

\*\* Authorised Officers are listed by name separately by the Service Director who will update the list when necessary

<sup>i</sup> Subject to compliance with Section 8.17 of the Legal Services Office Procedure Manual

<sup>ii</sup> Customer & Exchequer Service officers - Richard Hall, Richard Leadbeater, Mark Stanley, Elizabeth Walker, Cheryl Horncastle, Carol Smith, Bernadette Thorp, Paul Clarke. Education Welfare Officers – Sue Nixon, Paul Gunning, Nicholas Williams, Peter Jackson. Greenspace Officers – Sam Connelly, Susan Wilkinson, Dennis Whittle

<sup>iii</sup> Customer & Exchequer Service officers - Richard Hall, Richard Leadbeater, Mark Stanley, Elizabeth Walker, Cheryl Horncastle, Carol Smith, Bernadette Thorp, Paul Clarke. Senior Rent Officers – Paul Brooksbank, Julia Firth, Alison Brown, Sarah Jane Tidswell, David Whittingham, Andrew Harrison, Amina Chichangiri

<sup>iv</sup> Subject to compliance with the requirements of the Legal Services Act 2007

<sup>v</sup> Subject to compliance with the requirements of the Legal Services Act 2007

<sup>vi</sup> Subject to compliance with the requirements of the Legal Services Act 2007

<sup>vii</sup> Subject to compliance with relevant WYLA Frameworks, client instructions, etc.

<sup>viii</sup> Emma Hanley, Alison Knowles, Melinda Smith, Mark Swallow, Kirsti Sutton

<sup>ix</sup> Emma Hanley, Simon Baker

<sup>x</sup> Emma Hanley, Simon Baker

<sup>xi</sup>

<sup>xii</sup> Christoph Mickwitz

<sup>xiii</sup> Emma Hanley, Simon Baker

<sup>xiv</sup> Emma Hanley, Simon Baker

<sup>xv</sup> *Joanne Bartholomew, Mark Gregory, Mick Kendal. Kim Brear, Julian Faulkner – signing allotment agreements only*

<sup>xvi</sup> Yvonne Walsh, Chris Duffill

<sup>xvii</sup> Chris Cotton, Karen Roche, Eileen Daysh, Gayle Matthewman, Nigel McTernan

<sup>xviii</sup> Andrew Hoyle, Marc Ellis only

<sup>xix</sup> Helen Coldwell only

<sup>xx</sup> Andrew Hoyle, Marc Ellis only

## Scheme of Delegation & Decision Making - Governance

Responsibility	Head of Governance	Governance and Democratic Engagement Managers	Electoral Services Manager	Information Governance Manager & DPO	Mayoral Office Manager	Councillor Support & Liaison Manager
All operational and administrative matters in relation to the remuneration of Elected Councillors	✓	✓				✓
Approval of Councillor attendance at seminars, conferences, development events and single party events as appropriate	✓	✓				
All matters relating to the administrative and operational support for councillors individually and within their political groups	✓	✓				✓

<b>Responsibility</b>	<b>Head of Governance</b>	<b>Governance and Democratic Engagement Managers</b>	<b>Electoral Services Manager</b>	<b>Information Governance Manager &amp; DPO</b>	<b>Mayoral Office Manager</b>	<b>Councillor Support &amp; Liaison Manager</b>
All matters relating to the operational management and support of the Council's governance and decision making events in accordance with legislation and the Council's constitution	✓	✓				
All matters relating to the operational management and support of the Council's information governance framework	✓			✓		
All matters relating to the support of the Council's Mayor and Deputy Mayor during the course of his / her Civic Year	✓	✓			✓	

To undertake procurement and purchasing in accordance with financial and contract procedural rules up to and including financial ceilings as agreed by the Service Director	✓	✓	✓	✓	✓	✓
Matters relating to the electoral registration function: Specifically: <ul style="list-style-type: none"> <li>- Scheduling and delivery of activities (within a predetermined timeline)</li> <li>- Appointment and allocation of staff – additional casual Electoral Assistants</li> <li>- Procurement of equipment and services</li> <li>- Print supply contract</li> <li>- Software supply contract</li> <li>- Electronic registration supply (telephone and internet registration)</li> </ul>			✓			

Matters relating to elections and referendums. Specifically: <ul style="list-style-type: none"> <li>- Appointment and allocation of staff, polling station, verification and count</li> <li>- Print supply material, design and format</li> <li>- Election event venues</li> <li>- Procurement of equipment and services</li> <li>- Scheduling and delivering of activities (within a predetermined timeline)</li> <li>- Negotiate formal contracts in relation to elections on behalf of the Returning Officer</li> </ul>			✓			
---	--	--	---	--	--	--

**NOTE:** The Electoral Registration Officer (ERO) and (Acting) (Local) Returning Officer (RO) responsibilities are covered by the performance standards set by the Electoral Commission and are personal responsibilities outside of the control of the council. Responsibilities include:

- Provision of an accurate register of electors within the Kirklees area.
- The proper conduct and organisation of all elections and referendums in the Kirklees area.
- Support to the staff administering elections by providing appropriate support and resources.
- Delegate of powers and appointment of deputies to assist in the processes involved in running elections.

- Ensure compliance with the rules and regulations governing elections.

The work is undertaken by appropriate oversight of the work of the **Electoral Services Manager**.

The Electoral Services Manager is responsible to the LRO/ERO and has delegated decision making responsibilities on behalf of the LRO/ERO in support of the administration of the registration of electors and the conduct and organisation of elections and referendums

When making decisions for the registration of electors and administration of elections/referendums the Electoral Services Manager will work within the framework of legislation, in accordance with direction from the relevant Returning Officer and having regard to Electoral Commission guidance

## Scheme of Delegation & Decision Making – Procurement

Responsibility	Head of Procurement & Commissioning Support	Strategic Category Manager	Senior Procurement Specialist	Senior Procurement Officer	Business Support Officer
To make decisions in relation to commissioning and procurement activity. Such activity should be carried out in accordance with the Contract Procedure Rules (CPRs).	✓	✓	✓	✓	
In line with the Council's CPRs, undertaking of all procurement processes using an approved standard form of contract or process, or process pre-agreed with Service Director (Legal, Governance and Commissioning).	✓	✓	✓	✓	✓
In line with the Council's CPRs, signing of all contracts on standard terms and conditions or format pre-agreed with Service Director (Legal Governance and Commissioning).	✓	✓			



<b>Responsibility</b>	<b>Head of Procurement &amp; Commissioning Support</b>	<b>Strategic Category Manager</b>	<b>Senior Procurement Specialist</b>	<b>Senior Procurement Officer</b>	<b>Business Support Manager</b>
In line with the Council's CPRs, authorisation for contract initiation.	✓	✓			
In line with the Council's CPRs, creation and maintenance of Standing Lists.	✓	✓	✓		
In line with Council's CPRs, deletion of a supplier from a standing list.	✓	✓			
In line with the Council's CPRs, terminating contracts.	✓	✓			
In line with the contractual arrangements and the Council's CPRs and Financial Procedure Rules (FPRs), negotiating uplifts of fee rates for service providers.	✓	✓			
Subject to compliance with the UK Procurement Rules authorise exemptions to competition in line with Council's CPRs	✓				

## Scheme of Delegation & Decision Making - Insurance and Risk Management

Responsibility	Head of Risk	Insurance & Risk Manager	Senior Finance Officer - Insurance
Entering into a contract for insurance with an insurance provider or any insurance intermediary or advisor of any value	✓	✓	
Making of any payment using the councils own insurance funds: (a) within the authorised internal scheme or (b) on the instructions of an authorised claims handler or authorised legal advisor	✓	✓	✓
Transactions contrary to the advice of any legal advisor or external claims handler, or any authorisation to negotiate settlement beyond the Council's normal liability levels to be agreed with the insurer.			
Insurance transactions on behalf of Voluntary Aided, Foundation & Trust schools (with noted rights of trustees)	✓	✓	✓

Act as Advisor for Academy Schools in relation to insurance transactions. (NOTE – transactions authorised by school)		✓	
--	--	---	--

- 
- <sup>i</sup> Subject to compliance with Section 8.17 of the Legal Services Office Procedure Manual
  - <sup>ii</sup> Customer & Exchequer Service officers - Richard Hall, Richard Leadbeater, Mark Stanley, Elizabeth Walker, Cheryl Horncastle, Carol Smith, Bernadette Thorp, Paul Clarke. Education Welfare Officers – Sue Nixon, Paul Gunning, Nicholas Williams, Peter Jackson. Greenspace Officers – Sam Connelly, Susan Wilkinson, Dennis Whittle
  - <sup>iii</sup> Customer & Exchequer Service officers - Richard Hall, Richard Leadbeater, Mark Stanley, Elizabeth Walker, Cheryl Horncastle, Carol Smith, Bernadette Thorp, Paul Clarke. KNH Senior Rent Officers – Paul Brooksbank, Julia Firth, Alison Brown, Sarah Jane Tidswell, David Whittingham, Andrew Harrison, Amina Chichangiri
  - <sup>iv</sup> Subject to compliance with the requirements of the Legal Services Act 2007
  - <sup>v</sup> Subject to compliance with the requirements of the Legal Services Act 2007
  - <sup>vi</sup> Subject to compliance with the requirements of the Legal Services Act 2007
  - <sup>vii</sup> Subject to compliance with relevant WYLA Frameworks, client instructions, etc.
  - <sup>viii</sup> Emma Hanley, Alison Knowles, Melinda Smith, Mark Swallow, Kirsti Sutton
  - <sup>ix</sup> Emma Hanley, Simon Baker
  - <sup>x</sup> Emma Hanley, Simon Baker
  - <sup>xi</sup>
  - <sup>xii</sup> Christoph Mickwitz
  - <sup>xiii</sup> Emma Hanley, Simon Baker
  - <sup>xiv</sup> Emma Hanley, Simon Baker
  - <sup>xv</sup> *Joanne Bartholomew, Mark Gregory, Mick Kendal. Kim Brear, Julian Faulkner* – signing allotment agreements only
  - <sup>xvi</sup> Yvonne Walsh, Chris Duffill
  - <sup>xvii</sup> Chris Cotton, Karen Roche, Eileen Daysh, Gayle Matthewman, Nigel McTernan
  - <sup>xviii</sup> Andrew Hoyle, Marc Ellis only
  - <sup>xix</sup> Helen Coldwell only
  - <sup>xx</sup> Andrew Hoyle, Marc Ellis only