




**RECORD OF POWERS DELEGATED BY THE
EXECUTIVE DIRECTOR FOR PLACE**

Scheme of Delegation for Building Control

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| Date last reviewed: | July 2024 |
| David Shepherd Executive Director for Place | <i>Approved by Signature:</i>  |
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| Review Date: | July 2025 |
| Directorate contact officer: | Russell Smith |

DELEGATED POWERS

Purpose

To set out the delegations from the Executive Director for Place in accordance with the requirements of Part 3.7, paragraph 6 of Section F of the Council's Constitution.

Related Policies & Documents

- **Council Constitution - Part 2 - Decision making by officers (Article 13.6)**
<http://www.kirklees.gov.uk/beta/your-council/pdf/constitution-part-2.pdf>
- **Council constitution - Part 3 – Responsibility for functions (Section F)**
<http://www.kirklees.gov.uk/beta/your-council/pdf/constitution-part-37.pdf>
- **Council Constitution - Part 4 - Financial Procedure Rules (Part 4.6)**
<http://www.kirklees.gov.uk/beta/your-council/pdf/constitution-part-46.pdf>

Key Statutes/Legislation

The following pieces of legislation are applied in the delegated decisions specified in this document:

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| Building Act 1984 - updated by Building Safety Act 2022 Fire Safety and Places of Sports Act 1987 Highways Act 1980 Local Government Miscellaneous Provisions Act 1976 Mines and Quarries (Tips) Act 1969 | Public Health Act 1925 Public Health Act 1936 Regulatory Reform (Fire Safety) order 2005 Safety at Sports Grounds Act 1975 Towns and Improvement Clauses Act 1847 |
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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 Executive Director 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 Executive Director. All schemes of delegation will be lodged with the Council's Monitoring Officer and made available to the public on request.

Each Executive Director or Monitoring Officer has the authority to make amendments to the Scheme of Delegation necessitated by legislative changes as and when appropriate.

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 Services 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 Executive Director.

Where an officer post to which any function has been delegated is renamed or is affected by a staffing reorganisation, 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 reorganisation.

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.

| Responsibility | Officer A | Officer B | Officer C | Officer D | Head of Service | Service Director |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------------|------------------|
| Building Act 1984 - updated by Building Safety Act 2022 | | | | | | |
| Determine applications Section 16 and approve works under the Building Regulations. | ✓ | ✓ | | ✓ | ✓ | ✓ |
| Determine applications for relaxation, waiver or dispensation of Building Regulations under Section 8. | | | | | ✓ | ✓ |
| The giving of notice of lapse of deposit of plans under the Building Regulations under Section 32. | ✓ | ✓ | | ✓ | ✓ | ✓ |
| Serve notices requiring the exposure of works for inspection, or the alteration of works under the Building Regulations. | | | | | ✓ | ✓ |
| Section 35(b) May give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene— (a) a relevant provision of building regulations, or (b) a requirement imposed by virtue of such a provision. | | | | | ✓ | ✓ |
| Section 35(c) Issue a stop notice to any person who seems to be in control of the work, when it appears that the carrying out of construction work would contravene a provision of building regulations. | | | | | ✓ | ✓ |
| Authorise prosecutions in matters relating to Building Control under Section 35 and require the removal of offending work under Section 36. | | | | | ✓ | ✓ |
| Section 47 Acceptance rejection of initial notice | | | | | ✓ | ✓ |
| Section 52(a) Cancellation of initial notice when work becomes higher-risk building work. | | | | | ✓ | ✓ |
| Section 53 Consideration of transfer certificate and report | | | | | ✓ | ✓ |
| Section 54(2) Giving, acceptance and effect of public body's notice | | | | ✓ | ✓ | ✓ |
| Section 57 Offences – giving of false or misleading Notices or Certificates | | | | | ✓ | |
| Seek Court Orders under section 77 for the carrying out of remedial works on dangerous structures. | | | | | ✓ | ✓ |
| Exercise the powers and duties of the Council relating to the authorisation of emergency works to dangerous structures under Section 78. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Notice issued in respect of demolition works requiring the person undertaking the work to take various steps to make the site, adjacent buildings, and site services safe under Section 81 and 82. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Power of entry to buildings in order to ascertain whether contraventions of Building Regulations are being carried out under Section 95. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Recovery of any expense that has been incurred by the authority following action taken under this Act under Section 107. | | | | | ✓ | ✓ |
| Fire Safety and places of Sports Act 1987 | | | | | | |

| Responsibility | Officer A | Officer B | Officer C | Officer D | Head of Service | Service Director |
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| Issue, amend or replace safety certificates for Regulated Stands under Sections 26 and 27. | | | | | ✓ | ✓ |
| Inform the qualified person of the determination as to whether a Stand is a Regulated Stand under Section 28. | | | | | ✓ | ✓ |
| Highways Act 1980 | | | | | | |
| Exercise powers of the Council in respect of unfenced dangers adjoining streets under Section 165. | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |
| Local Government Miscellaneous Provisions Act 1976 | | | | | | |
| Powers to obtain particulars of persons interested in land. | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Mines and Quarries (Tips) Act 1969 | | | | | | |
| Serve notices requiring information under Section 12. | | | | | ✓ | ✓ |
| Gain power to entry onto lands under Section 13 and 18. | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authorise emergency action under Section 17. | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Authorise remedial works under Section 17. | | | | | ✓ | ✓ |
| Recover costs of remedial works under Section 23. | | | | | ✓ | ✓ |
| Submit applications for grant towards the costs of remedial works under Section 25. | | | | | ✓ | ✓ |
| Party Wall etc. Act 1996 | | | | | | |
| Act as appointing officer under S10 (8). Select a third surveyor where required to do so. | | | | ✓ | ✓ | |
| Public Health Act 1925 | | | | | | |
| Determine the naming and re-naming of streets under Sections 17 and 18 in consultation with Ward representatives, referring matters to relevant Area Committees in cases of dispute. | | | | ✓ | ✓ | ✓ |
| The erection and maintenance of street nameplates under Section 19. | | | | ✓ | ✓ | ✓ |
| To exercise the powers of the council to make formal objection to any proposed name for a street under Section 17. | | | | ✓ | ✓ | ✓ |
| Public Health Act 1936 | | | | | | |
| Approve or reject plans for the culverting of a watercourse. | ✓ | ✓ | | ✓ | ✓ | ✓ |
| Serve notice to require the culverting of a water course. | | | | | ✓ | ✓ |
| Regulatory Reform (Fire Safety) Order 2005 | | | | | | |
| To enter premises and issue alteration notices, enforcement notices or prohibition notices at designated sports grounds. | | ✓ | | ✓ | ✓ | ✓ |
| Safety at Sports Grounds Act 1975 | | | | | | |

| Responsibility | Officer A | Officer B | Officer C | Officer D | Head of Service | Service Director |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|-----------|-----------|-----------|-----------------|------------------|
| Authorisation of applications under Section 7 to Magistrates Court for a safety condition to operate pending an appeal against that condition to the Secretary of State (in consultation with the Chair of Licensing and Safety Committee). | | | | | ✓ | ✓ |
| Authorisation of applications under Section 10 to Magistrates Court for an Order to limit or prohibit spectators at a sports ground (in consultation with the Chair of Licensing and Safety Committee). | | | | | ✓ | ✓ |
| Authorisation of appeals under Section 10 to the Crown Court against a refusal of the Magistrates Court to make an Order under Section 10(1) or a decision by a Magistrates Court (in consultation with the Chair of Licensing and Safety Committee). | | | | | ✓ | ✓ |
| Cancellation of a safety certification the death of the holder or the dissolution of the corporate body. | | | | | ✓ | ✓ |
| Deal with an appeal to a Magistrates Court against a notice served under Section 10 of the Act (as amended by the Fire Safety and Places of Sports Act 1987). | | | | | ✓ | ✓ |
| Determine, that an applicant for a safety certificate is a qualified person within the provisions of Sections 2 and 3. | | | | | ✓ | ✓ |
| Issue, amend, replace and transfer safety certificates. | | | | | ✓ | ✓ |
| Serve notices of a decision under the provisions of Section 5 following determination by the Licensing and Safety Committee that an applicant is not a qualified person. | | | | | ✓ | ✓ |
| To appeal, if necessary, to a Crown Court against any decision made by a Magistrates Court, cancelling, annulling, amending or modifying a notice served under Section 10 of the Act (as amended by Section 24 of the Fire Safety and Places of Sports Act). | | | | | ✓ | ✓ |
| To appeal to a Crown Court against any order made by the Magistrates Court on appeal made under Section 5 of the Act (as amended by Section 22 of the Fire Safety and Places of Sports Act 1987). | | | | | ✓ | ✓ |
| To institute proceedings in the Magistrates Court for offences under the Act. | | | | | ✓ | ✓ |
| To serve, amend or withdraw Prohibition Notices under Section 10 of the Act (as amended by Section 23 of the Fire Safety and Places of Sports Act 1987) (The Chair of the Licensing and Safety Committee to be notified of such actions as soon as practicable). | | | | | ✓ | ✓ |
| Towns and Improvement Clauses Act 1847 | | | | | | |
| Determine the numbering and re-numbering of houses under Section 64. | | | | ✓ | ✓ | ✓ |

Key to authorised officers:

| Responsibility | Post Title/Section |
|-----------------------|------------------------------------------------|
| Officer A | Assistant/Building Surveyor |
| Officer B | Senior Building Surveyor |
| Officer C | Structural Engineer/Senior Structural Engineer |
| Officer D | Building Control Manager |
| Head of Service | Head of Planning and Building Control |
| Service Director | Service Director for Skills and Regeneration |