

RESPONSIBILITY FOR FUNCTIONS AND DELEGATIONS

General Provisions

1. Subject to the limitations contained within this Schedule the powers and duties set out in the third column of the table at **Paragraph 15** of this Schedule shall be executed and performed by and are hereby delegated to the Boards and Committees of the Council referred to in the first column of that table until such time as this obligation shall be revoked or amended by resolution of the Council.
2. Where any proposal implies, requires or would be expected to result in a variation to a Policy Framework document or of the approved budget in excess of any variation permitted by Financial Regulations the proposal shall be submitted directly to the Council for decision.
3. Any decision inconsistent with or contrary to any policy of the Council as embodied in a formal resolution of the Council or established by long practice shall be referred to the relevant Service Board together with any proposals for amendments to the policy. Where the decision relates to the Policy Framework, then the proposal shall be referred directly to the Council for decision.
4. Notwithstanding the foregoing, in the event of war or a national defence emergency declared by the Crown or HM Government, all the powers, duties and functions of the Council without reservation are hereby delegated to the Chief Executive in consultation with the Leader of the Council, who shall have authority and power to delegate such powers, duties and functions as he deems appropriate.
5. Boards and Committees may not determine any matter required by statute to be decided by the Council.
6. All appointments to Boards and Committees or outside bodies shall be reserved to the full Council unless included specifically within the Terms of Reference of the Board and/or Committee.
7. Changes in the member representation and organisation or functions of the Council and its Boards and Committees shall be reserved to full Council.
8. All matters relating to the acquisition and disposal of land and buildings shall be referred to the Policy & Organisation Board if the acquisition or disposal of the piece of land is not covered by the terms of reference of a Service Board, or the terms of delegation to Officers as contained in the Officer Scheme of Delegation.

9. The adoption of the Development Plan and Development Plan Documents are reserved for decision by the Council.
10. There shall be no scrutinising of the work of the Regulatory Board.
11. The powers and duties of the Council, Boards and Committees as described in this Part 3 to this Constitution shall be executed and performed by, and are hereby delegated to, the Officers identified in **Schedule 10 in Part 3**. Such arrangements shall continue until they are revoked or amended by resolution of the Council.
12. This Scheme of Delegations shall not extend to: -
- (a) Powers, duties or functions with respect to the levying of the Council Tax excluding those specifically delegated;
 - (b) The levying or issuing of a rate or precept for a rate;
 - (c) The control of the Council's borrowing requirement;
 - (d) Those powers, duties or functions for which statute requires the Council to retain responsibility;
 - (e) Making byelaws;
 - (f) Making orders relating to the compulsory purchase of land; or
 - (g) Adopting the Development Plan and Development Plan Documents under the Town and Country Planning Acts
- 14 All Boards and Committees have the power to respond to any consultation in respect of any matter falling within their Terms of Reference.
- 15 The Boards and Committees of the Council:

BOARDS AND COMMITTEES	NUMBER OF MEMBERS	POWERS, DUTIES OR FUNCTIONS DELEGATED
Service Boards appointed by the Council	Policy and Organisation Board, Community and Environment Board and Housing Board each comprise of 7 members.	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for each Board appointed by the Council and as set out in the Annexes to this Schedule.

BOARDS AND COMMITTEES	NUMBER OF MEMBERS	POWERS, DUTIES OR FUNCTIONS DELEGATED
Standards and Audit Sub Board	The Committee shall comprise of 5 members	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for each Committee appointed by the Council and as set out in the Annexe to this Schedule.
Standards and Audit Assessment Sub-Committee	The Sub-Committee shall comprise of 3 members who must be members of the Standards and Audit Sub Board	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for each Sub-committee approved by the Council and as set out in the Annexe to this Schedule.
Regulatory Board	The Board will comprise of 7 members of the Council (For this Board, in addition to nominating members for appointment as full members, political groups on the Council shall be entitled to nominate the same number of suitably trained named deputies who may substitute for members who are unable to attend a meeting)	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for each Board appointed by the Council and as set out in the Annexe to this Schedule.

BOARDS AND COMMITTEES	NUMBER OF MEMBERS	POWERS, DUTIES OR FUNCTIONS DELEGATED
Licensing (General Applications) Sub Board	The Sub Board will comprise of 5 members who must be members of the Regulatory Board.	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for each Board appointed by the Council and as set out in the Annexe to this Schedule.
Licensing Sub-Board	The Sub Board will comprise of 3 members who must be members of the Regulatory Board	All the powers, duties and functions of the Council as contained, mentioned or referred to in the statutory provisions from time to time in force governing the exercise of those powers, duties and functions described specifically and generally in the Terms of Reference for each Sub-Board approved by the Council and as set out in the Annexe to this Schedule.
Portchester Crematorium Joint Committee	The Joint Committee comprises two members each from Gosport, Fareham and Havant Borough Councils and Portsmouth City Council. Each Council is also authorised to appoint a standing deputy to deputise for each appointed member.	The Joint Committee is charged with full responsibility for the management and operation of the Portchester Crematorium in accordance with the terms of an agreement between the Councils.
Project Integra Management Board	The Joint Committee comprises 15 voting members being one appointed by each Partner Authority in Hampshire and one	The Joint Committee has responsibility for the management of Hampshire's waste.

<i>BOARDS AND COMMITTEES</i>	NUMBER OF MEMBERS	POWERS, DUTIES OR FUNCTIONS DELEGATED
	co-opted non-voting Member representing Hampshire Waste Services. Each Authority may appoint a deputy for their named representative.	

POLICY AND ORGANISATION BOARD

MEMBERSHIP –7 COUNCILLORS

Terms of Reference

- 1 The provision of the policy and administrative framework in which the Council will operate.
- 2 Control of the Council's human and material resources.
- 3 To promote effective relations with other local authorities, agencies, businesses and the public.
- 4 To exercise the functions of the Council in relation to:

A. Policy and Strategy

The formulation , co-ordination and implementation of corporate policies and strategies including the Corporate Plan and making decisions relating to such matters to the extent that they are not reserved to full Council or delegated to other Boards.

- a. The formulation of policies and initiatives for the maintenance and improvement of the environment including climate change and the health of the Community.
- b. The formulation of policies and initiatives in respect of Community Safety and Anti- social Behaviour.
- c. The formulation of policies and initiatives for the provision of recreational, cultural, sports, heritage facilities and allotments and cemeteries and crematoria.

B. Finance and Other Resources

(a) Establishing and maintaining the overall framework for the allocation, control and management of the Council's resources including finance, assets and ICT

(b) Formulating annual budget proposals for adoption by the Council; and authorising virements under Financial Regulations

(c) Making decisions or granting authorisations on expenditure in accordance with the requirements of and delegations given by Financial Regulations.

(d) Dealing with all financial services, including risk management, treasury management, and insurance.

(e) Determining grant requests from voluntary organisations

C. Human Resources

(a) Establishing the framework for human resources policies and procedures and the discharge of the Council's functions as an employer where this is exercisable by a Board.

(b) To determine the Council's staffing establishment and approve changes

D. General Powers

(a) To exercise all functions of the Council not specifically delegated to another Board or Committee or reserved to full Council under the law, this Scheme of Delegation, Standing Orders or Procedure Rules or regulations.

(b) To exercise the Council's functions in respect of matters referred to it by other Boards or Committees as having corporate budgetary implications.

E. Economic Development and Planning Policy

(a) To develop and implement the strategy and policy of the Council for economic prosperity within the Borough.

(b) To develop the strategy and policy of the Council comprising the Development Plan and Development Plan Documents, and approve and review the Gosport Local Development Scheme.

(c) To develop the Council's strategies and policies for tourism and culture.

(d) To promote effective relations with other local authorities, agencies, businesses and the public.

(e) To develop and implement the strategy and policy of the Council on:

- i. development and implementation of growth within the Borough.
- ii. regeneration, development and sustainable infrastructure.
- iii. community cohesion, community development and health inequalities
- iv. all matters in relation to proposals for Development Plan Documents under the Local Development Framework and associated matters such as design and development briefs.
- v. all matters relating to Economic Development including regional or sub regional partners.
- vi. all matters in relation to sustainable development including Climate Change.
- vii. all matters in relation to transport, utility provision and open space.
- viii. all matters in relation to tourism and culture.

- (f) To consider and respond to proposals and consultations in relation to:
 - i. National planning guidance and policy initiatives.
 - ii. Regional and Sub Regional Strategies.
 - iii. Proposals for minerals and waste.
 - (g) To develop the Council's policy and overview arrangements in relation to neighbourhood development.
- F. Property Management
- (a) to manage land held for the purposes of the functions of the Board, corporately held property and land declared surplus to the requirements of a Service Board or the service area in accordance with the principles of good estate management.
 - (b) to authorise the acquisition or disposal of any land held by the Council.
- G. The Council's powers under the Local Authorities (Land) Act 1963, Part III of the Local Government and Housing Act 1989 (or any similar discretionary spending power) and under any other appropriate powers or legislation in relation to loans or other financial assistance to businesses and other appropriate organisations of any kind situated in or moving into the Borough or for persons or bodies of any kind providing facilities which are aimed at creating jobs and/or economic regeneration.

F. Miscellaneous Service Functions

To exercise the Council's functions in relation to the following services:

- (a) Electoral
- (b) Civic, ceremonial and commemorative (including Twinning);
- (c) Legal and complaints services including investigation by the Local Government Ombudsman;
- (d) Performance management and corporate procurement;
- (e) Revenues and Benefits, including Housing Benefit and Local Council Tax Support, the administration, collection and enforcement of Council Tax, Non-Domestic Rates and to authorise write-offs;
- (f) Local Land Charges;
- (g) Corporate communications and services for Councillors;
- (h) Emergency Planning.

DELEGATED POWER

1. To appoint Task and Finish Groups subject to there being no more than two appointed at any one time.

STANDARDS AND AUDIT SUB-BOARD

Membership – Any 5 Members of the Policy and Organisation Board

***unless all Groups on the Council are not represented on the Policy and Organisation Board in which case membership is to be drawn from all Members on a cross party basis with the majority Group retaining the majority on the Sub-Board.**

Terms of Reference

1 In respect of standards matters the Sub-Board will have the following roles and functions:

- a) promoting and maintaining high standards of conduct by Councillors
- b) assisting Councillors to observe the Code of Conduct
- c) monitoring the operation of the Code of Conduct
- d) to arrange training for Councillors, Independent Members and Officers on matters relating to the Council's Code of Conduct and governance, including standards, ethics and probity.
- e) granting dispensations to Councillors from requirements relating to interests set out in the Members' Code of Conduct;
- f) to receive complaints about the conduct of the Council or any of its Sub-Committees, Boards, members (whether or not they relate to maladministration) including the power to investigate any complaint against any member of the Council, and any facts brought to the attention of the Sub-Board by the Council's Monitoring Officer
- g) to review complaints handling and Ombudsman investigations
- h) to keep under review the Council's "whistle blowing" policy

2. To consider, approve or otherwise deal with:

- a) The Chief Internal Auditor's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
 - b) Summaries of specific internal audit reports as requested.
 - c) Reports dealing with the management and performance of the providers of Internal Audit services.
 - d) Reports from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
 - e) The External Auditor's annual letter, relevant reports, and the reports to those charged with governance.
 - f) Specific reports as agreed with the external auditor.
3. To receive and comment upon the Audit Strategy.
 4. To comment on the scope and depth of external audit work and to ensure it gives value for money.
 5. To commission work from Internal Audit in accordance with the agreed Audit Strategy, and External Audit.
 6. To consider amendments to the Council's Constitution and to make such recommendations to the Policy and Organisation Board as may be necessary unless otherwise delegated to the Monitoring Officer.
 7. To review any issue referred to it by the Chief Executive, or any Council committee.
 8. To monitor and take decisions in respect of the effective development and operation of risk management and corporate governance in the Council.
 9. To monitor and take decisions in respect of the Council policies on the anti-fraud and anti-corruption strategy
 10. To recommend actions and decisions to the Policy and Organisation Board in respect of the authority's Annual Governance Statement [and any other aspect of the Sub-Board's work]

11. To consider and take decisions in respect of the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
12. To consider the Council's compliance with its own and other published standards and controls, including the Annual Governance Statement and to make recommendations where appropriate .
13. To review the Annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
14. To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts and to make recommendations where appropriate.

Grants Sub-Board

Membership – Any Members of the Policy and Organisation Board

unless all Groups on the Council are not represented on the Policy and Organisation Board in which case membership is to be drawn from all Members on a cross party basis consisting of 3 Liberal Democrat Members, 1 Conservative Members and 1 Labour Member

Terms of Reference

1. To consider and award grants to organisations who have applied to the Council for such grants in accordance with any particular application process and grant conditions which are applicable but which may include projects which are for the benefit of the community and/or relating to aspects of heritage and culture.
2. To receive and consider reports on the suitability of grant applications.
3. To provide reports to the Policy and Organisation Board on the progress of grant funding and hear how they have been used by recipient organisations as required by the Board.

COMMUNITY AND ENVIRONMENT BOARD

Terms of Reference

1.0 Environment & Health

- 1.1 Pollution control.
- 1.2 Environmental protection including statutory nuisances.
- 1.3 Food safety legislation.
- 1.4 Public health functions.

2.0 Leisure Recreation & Other Amenities

- 2.2 The operation and management of recreational, cultural, sporting and leisure facilities, cemeteries and crematoria, parks, play areas and open spaces, allotments, car parking, boat moorings and sea defences.
- 2.3 Council's powers in relation to highways, streets and road safety.
- 2.4 Provision and maintenance of amenity street lighting.
- 2.5 Policy on street naming and numbering.
- 2.6 All operational land drainage functions exercisable by the Council.

3.0 General

- 3.1 To promote effective relations with other local authorities, agencies, businesses and the public.
- 3.2. Management of services relating to the collection of refuse, street cleansing, public conveniences and grounds maintenance.
- 3.3 To exercise the functions of the Council under the Acts and any Statutory Orders or Regulations made thereunder as set out in the Scheme of Delegations to Officers Part 3 – Schedule 10 in relation to any of the matters falling within the Terms of Reference of the Community Board.
- 3.4 To set the amount of Fixed Penalty to be paid to the Council for offences under Environmental, Community Safety, and Anti-Social Behaviour legislation including arrangements to accept a lesser sum as discharging liability.

3.5 To approve entering into arrangements with persons to exercise the Council's functions in respect of giving Fixed Penalty Notices under Environmental, Community Safety, and Anti-Social Behaviour legislation.

4.0 Climate Change

4.1 Oversight of the Council's Climate Change Strategy taking into account changes in legislation and guidance, best practice, new technologies, research findings.

4.2 Review and monitoring the Council's Climate Change Strategy proposing amendments to Full Council.

4.3 To be the Council's 'voice' on Climate Change issues locally and nationally providing the Council's views on such matters in response to consultation exercises and lobbying Government and other external agencies as appropriate.

DELEGATED POWER

To appoint Task and Finish Groups subject to there being no more than two appointed at any one time.

HOUSING BOARD

Terms of Reference

1.0 Housing

- 1.1 The management of the Council's housing stock, formulation and implementation of the Housing Strategy, renewal activity and Homelessness Strategy.
- 1.2 Private Sector Housing legislation, including empty dwellings, defective housing, caravans and control of houses in multiple occupation, grants, protection of persons from unlawful eviction and harassment.
- 1.3 Fuel poverty and affordable warmth, home energy conservation measures and policies including the provision of financial assistance.
- 1.4 Policies for the management of the Council's housing stock including fixing of rent and change of landlord provision under the Housing Act 1988 and the terms and conditions for all types of tenancies issued by the Council.
- 1.5 All of the Council's powers in relation to its role as an enabler including formulation of a strategy for the provision of housing, housing renewal, relationships with Registered Providers, provision of guarantees and mortgages, co-ownership proposals.
- 1.6 The sale of Council houses, re-purchases and payment of disturbance and home loss payments in appropriate cases.
- 1.7 Council's policies and procedures in respect of tenant participation.
- 1.8 Homelessness - Services and Policies.
- 1.9 The Housing Register and Allocation Policy.
- 1.10 Agreements, delivery and outcomes relating to Supporting People.
- 1.11 Management of services relating to housing management, housing repairs and maintenance.
- 1.12 Financial oversight and agreement of the annual HRA budget, proposed rents and supporting business plan

DELEGATED POWER

1. To appoint Task and Finish Groups subject to there being no more than two appointed at any one time

REGULATORY BOARD TERMS OF REFERENCE

Membership – 7 Councillors

Terms of Reference

1. To carry out such planning functions of the Council as are not delegated to the Policy and Organisation Board.
2. To carry out the regulatory functions of the Council as a Building Control Authority.
3. To carry out all of the licensing and registration functions (including enforcement thereof) of the Council where these are not specifically delegated to any other Board.
4. Except insofar as power is delegated to the Licensing Sub-Board, Licensing (General Applications) Sub-Board or officers, the grant, renewal, refusal, revocation and imposition of conditions in respect of any licences or registration included in the functions of the Council and in particular in respect of the matters set out at Section 2 below

1. Planning Powers

- 1.1 The discharge of the Council's functions under the Town and Country Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990 and any regulations made thereunder (other than those matters delegated to the Policy and Organisation Board) including:-
 - (i) the control of development;
 - (ii) enforcement measures;
 - (iii) the conservation and enhancement of buildings and areas of historic/architectural interest; and
 - (iv) tree preservation orders.
- 1.2 The discharge of the Council's functions in relation to allied legislation including that relating to Building Control, Ancient Monuments, Countryside, Parks, Nature Reserves, Archaeological Areas and Derelict Land.
- 1.3 The consideration of proposals, issues and formal consultation in relation to planning matters in adjoining Planning Authority Areas.

- 1.4 The consideration of all proposals that involve departures from approved local plans.
- 1.5 The consideration of planning consultations received from the County Council in relation to development within the Borough and formulating and deciding the Council's response to such consultations.
- 1.6 Acting as consultee and commenting on strategic planning issues and development proposals by Government departments, Hampshire County Council and adjoining Local Planning Authorities.
- 1.7 The exercise of the powers and duties of the Council under the Building Act 1984 which relate to the Building Regulations and allied legislation.
- 1.8 The consideration and determination of applications for a contribution towards the cost of repairs to buildings on the Buildings at Risk Register provided the contribution does not exceed 15% of the total costs and is within the Board's budget provision.
- 1.9 The discharge of the Council's functions and powers in relation to High Hedges under Part 8 of the Anti-Social Behaviour Act 2003.

2. Licensing Powers

- 2.1 The licensing of money lenders, pawnbrokers, scrap metal dealers, sex establishments and premises for ear-piercing, acupuncture, tattooing and electrolysis.
- 2.2 The administration of any dog licensing or registration schemes and all other matters relating to the general control of dogs and other animals.
- 2.3 The function of licensing and prosecuting authority under the Caravan Sites and Control of Development Act 1960.
- 2.4 The control of street and house-to-house collections.
- 2.5 The determination of applications in respect of Hackney Carriages, Taxis and Private Hire Vehicles.
- 2.6 The determination of applications relating to Street Trading.
- 2.7 Any other licences, permits or consents for which the Council has a general or specific responsibility under any general or local Act.
- 2.8 The administration of the registration scheme under the Vehicles (Crime) Act 2001.
- 2.9 The discharge of the Council's powers and duties under the Licensing Act 2003 including the formulation but not adoption of the Statement of Licensing Policy under the Licensing Act 2003.

- 2.10 The discharge of the Council's powers and duties under the Gambling Act 2005 including the formulation but not adoption of the Statement of Principles under the Gambling Act 2005.

LICENSING (GENERAL APPLICATIONS) SUB-BOARD

Membership – Any 5 Members of the Regulatory Board

Delegated Powers

1. The determination of applications for the licensing of money lenders, pawnbrokers, scrap metal dealers, sex establishments and premises for ear-piercing, acupuncture, tattooing and electrolysis.
2. The administration of any dog licensing or registration schemes including the determination of applications for licensing and registration and all other matters relating to the general control of dogs and other animals.
3. The function of licensing and prosecuting authority under the Caravan Sites and Control of Development Act 1960.
4. The control of street and house-to-house collections.
5. The determination of applications in respect of Hackney Carriages, Taxis and Private Hire Vehicles.
6. The determination of applications in respect of Street Trading.
7. Any other licences, permits or consents for which the Council has a general or specific responsibility under any general or local Act.
8. The administration of the registration scheme under the Vehicles (Crime) Act 2001.

LICENSING SUB-BOARD

Membership – Any 3 Members of the Regulatory Board

Delegated Powers

1. LICENSING ACT 2003

- 1.1 The determination of applications where representations or a police objection is received or where the applicant for a personal licence has unspent convictions.
- 1.2 The determination of applications to renew a premises licence or a club premises certificate.
- 1.3 The determination of a police objection to a temporary event notice.
- 1.4 Where the Council is a consultee to decide whether or not to object to an application made to another Licensing Authority under the Licensing Act 2003.

2. GAMBLING ACT 2005

- 2.1 The determination of applications where representations have been received and not withdrawn.
- 2.2 The determination of applications for the grant or variation or transfer of a premises licence
- 2.3 The determination of applications for the review of a premises licence.
- 2.4 The determination of an application for club gaming/club machine permits.
- 2.5 The determination of a police objection to a temporary use notice.

STANDARDS AND AUDIT ASSESSMENT SUB-COMMITTEE

Membership - 3 Members of the Standards and Audit Sub Board

Delegated Powers

1. The determination of allegations of failure to comply with the Council's Code of Conduct, in accordance with the Council's arrangements for dealing with such allegations.

SCHEME OF DELEGATION TO OFFICERS AND STATUTORY (PROPER) OFFICER APPOINTMENTS

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GOSPORT BOROUGH COUNCIL

SCHEME OF DELEGATION TO OFFICERS

1.0 General

- 1.1 Chief Officers in this Scheme of Delegations means Chief Executive, Borough Treasurer, Section 151 Officer, Borough Solicitor and Housing Services Manager.
- 1.2 Delegated powers shall at all times be exercised fully in accordance with any statutory requirements for the time being in force; any policy or decision of the Council or appropriate Board; and in accordance with the Constitution; Financial Regulations for the time being of the Council; and Contract Procedure rules; and within any approved budgetary limits and also have regard to the Council's equalities duties and duty under Section 17 of the Crime and Disorder Act 1998.
- 1.3 Any Officer having delegated powers may, before making any decisions under those powers, consult with such other Officers or Members as he considers appropriate and may, if he considers it necessary, refer the matter to the relevant Board for determination.
- 1.4 Any Officer having delegated powers under this Scheme may authorise any other suitably qualified Officer to exercise their delegated powers except where prohibited by statute or law and powers relating to any statutory officer appointment. Such authorisation must be made in writing. The officer authorised by the other shall act in the name of the original officer who received the original delegation.
- 1.5 Any powers delegated by this Scheme to any Officer shall include a delegation to any other officer to whom the function in respect of which those powers may be exercised has passed either by re-designation, reorganisation or otherwise.
- 1.6 Any powers delegated by this Scheme in respect of any statutory provision shall include a delegation in

respect of any other statutory provision, which re-enacts or remakes the same with or without amendments.

- 1.7 In any case, where particular powers have been delegated by this Scheme to an Officer, if at any time that post is not currently filled the delegation will automatically be to the line manager of that Officer unless, for some reason the line manager is not qualified (e.g. through professional qualification) to carry out a particular function, in which case the duty will temporarily be delegated to the next most senior officer who is so suitably qualified.
- 1.8 Any powers delegated to an officer under this Scheme shall also include the delegation of that function to that Officer's line manager and Chief Officers providing the line manager and/or Chief Officer holds any statutory qualification necessary for undertaking that function.
- 1.9 The powers delegated to Chief Officers include the powers to manage their staff and services including the appointment, promotion and dismissal of staff within any other specific provision approved by Council and the power to purchase necessary equipment and other items, provided budget provision has been made for the purpose.
- 1.10 Chief Officers will undertake all and any functions and tasks necessary in support of or related to supporting approved partnerships and joint working. For the avoidance of doubt, this should include joint working with other public bodies and agencies, including NHS Trusts and associated bodies, other local authorities and other appropriate bodies, including those with representatives of the private sector. This would include Partnership for Urban South Hampshire (PUSH) Transport for South Hampshire (TfSH), and Solent Local Enterprise Partnership.

2.0 Delegations to Chief Officers

2.1 Management Powers

- 2.1.1 Authority to carry out the day-to-day administration of any Service Unit, Section, staff or other matter under the control of the Chief Officer or within their Terms of Reference.

Staff

- 2.1.2 Authority to pay loans or advances to staff within the terms of any Council scheme for the time being in force.
- 2.1.3 Authority within the law to recruit and terminate the employment of staff within their Units.

NOTE: For the avoidance of doubt, the appointment of a Chief Officer shall be the responsibility of Members of the Council.

- 2.1.4 Authority, in respect of staff employed within the Service Unit or Section of the Chief Officer concerned, to take all relevant action under the Council's Disciplinary and Grievance Codes of Practice save that the power to issue a final written warning (including the conduct of any associated interview) or the suspension or dismissal of any member of staff shall be exercised in accordance with the Council's disciplinary procedures, and in addition the provisions of Paragraph 1.3 of this Scheme shall not apply.
- 2.1.5 Authority to arrange and approve the training of staff including attendance at meetings, conferences, day release courses and the like.
- 2.1.6 Authority to grant special leave, paid or unpaid.
- 2.1.7 Authority to approve the payment of overtime within the limits of any approved national or local scheme.
- 2.1.8 Authority, subject to approval by the Chief Executive and the Borough Treasurer, to award merit increments and honoraria to staff for exceptional performance.

Assets

- 2.1.9 Authority to dispose of obsolete or worn out plant and equipment by sale or otherwise in the Council's best financial interests and so that value for money is received.
- 2.1.10 Authority within the individual scope of each Officer's Terms of Reference to carry out the day-to-day management, maintenance and repair of any land and premises for the time being under their control.

2.1.11 Authority in consultation with the Borough Treasurer and the Borough Solicitor to grant and renew trading concessions for terms not exceeding one year on or in any land or property under the day-to-day control of the Officer concerned.

Payments

2.1.12 Authority with the approval of the Borough Treasurer to write off debts to the Council deemed to be irrecoverable within any limits for the time being imposed by the Council's Financial Regulations.

2.1.13 Authority where this is in the best interests of the Council and in order to settle or resolve any claim or dispute and with the approval of the Borough Treasurer and Borough Solicitor to make ex gratia payments not exceeding £1,000.

General

2.1.14 Authority to take all necessary action to implement Council, Board, Committee, strategies, policies, and decisions including actions that commit resources, within an agreed budget in the case of financial resources, as necessary and appropriate.

2.1.15 Subject to the approval of the Borough Solicitor and Borough Treasurer Officer to enter into any lawful contract for the provision of services, goods or materials for another body where to do so is considered beneficial to the Council.

2.1.17 To take any consequential action necessary or expedient in respect of a bid or tender involving funding or assistance from central government, the European Commission or from any other source.

2.1.18 To determine the procurement route for any procurement governed by the EU Procurement Regime or any other legislation and make all subsequent decisions in relation to such procurement whether governed by the EU Procurement Regime or not.

2.2 Statutory and Enforcement Powers

- 2.2.1 Authority within the individual scope of each Chief Officer's terms of reference but subject to limitations imposed by law, any decision of the Council or its Boards or by this Scheme to take any and all action necessary to carry out the functions of the Council including the issue of any necessary licence or consent required under any statutory provision or local Byelaw or Order.
- 2.2.2 Authority within the individual scope of each Chief Officer's terms of reference and within the scope of any statutory authority for the time being in force to do any or all of the following:-
- (a) To serve notices and to rescind any notice served and to determine the existence of any relevant state of affairs necessary for the service or rescission of any notice;
 - (b) To obtain information by requisition or any other means;
 - (c) To enter premises and, where necessary, to apply for warrants of entry to premises;
 - (d) To require the execution of works to premises or on or under land including the power to require the removal of any substance or deposit from premises or land;
 - (e) To require the cessation of a particular use of premises or to impose conditions for the continuation of that use including the imposition of any limit on or other requirement relating to the numbers of occupants;
 - (f) Where necessary, to carry out works in default;
 - (g) To recover costs by any and all relevant legal means;
 - (h) To investigate offences;
 - (i) To consult with any other individual or body or organisation;
 - (j) To authorise and appoint any member of his staff, provided that member of staff is in possession of any necessary qualifications, to act as an Inspector or otherwise for any of the

above purposes and for the purposes of enforcing the provisions of any enactment which it is the power or duty of the Council to enforce.

- 2.2.3 Authority within the individual scope of each Chief Officer's terms of reference, and in consultation with the Borough Solicitor, to take any and all action necessary to satisfy any duty or requirement imposed on the Council by any new or amending legislative provision or case law in respect of which power has not been delegated by this Scheme.
- 2.2.4 Authority to give a formal caution as an alternative to the taking of criminal proceedings in those cases where the Borough Solicitor has so authorised.
- 2.2.5 To authorise appropriate Officers to administer formal cautions in respect of any criminal offence.
- 2.2.6 To grant authorisations under Sections 28 and 29 of the Regulation of Investigatory Powers Act 2000.
- 2.3 Powers With Regard to Land (except Council housing)

Note: Any action taken under the following delegated powers shall except in the case of a temporary lease or licence under 9.16, or in the case of a lease or licence to a sporting club, voluntary group or similar organisation granted under Board authority at a nominal or concessionary rental be at a price which, in the opinion of the Council's valuer, represents the best price which can reasonably be obtained and upon such other terms and conditions as he has recommended.

- 2.3.1 Authority, in consultation with the Borough Treasurer, to agree any rent increase which may be due under the terms of any lease or licence.
- 2.3.2 Authority, in consultation with the Borough Solicitor and with the Borough Treasurer, to authorise on terms recommended by the Council's Valuer:-
 - (i) the renewal of or variation of leases and licences; and/or
 - (ii) the grant of a licence to enter upon and carry out works on under or over land owned by the Council.

3.0 Delegations to the Chief Executive

- 3.1 Authority to require that any Officer having delegated powers under this Scheme shall not exercise those powers either generally or in such circumstances as the Chief Executive may specify.
- 3.2 Authority to require that any decision which may be taken under delegated powers shall be submitted to the relevant Board or Committee for determination.
- 3.3 Authority to make any decision which may be made under delegated powers in substitution for the Officer to whom the relevant power has been delegated except where that decision relates to a statutory officer appointment or can only be taken by an Officer having any necessary qualifications or statutory authority.
- 3.4 Authority in the event of the illness, incapacity or absence of any Officer having delegated powers under this Scheme to appoint another Officer or Officers for the purposes of the exercise of any or all of those powers.
- 3.5 Authority to attest the Council's seal and to sign documents in accordance with the provisions of Appendix I.
- 3.6 Authority, in consultation with the Leader of the Council and Ward Councillors, to make Public Spaces Protection Orders under Part 4, Chapter 2 of the Anti Social Behaviour, Crime and Policing Act 2014.
- 3.7 Authority to take any action on urgent matters which would otherwise require reference to or consultation with the Council, a Board or Committee, if there is no such time for such reference or consultation to be made provided the Section 151 Officer and Monitoring Officer agree to the proposed course of action before it is decided. All such decisions shall be reported to the next meeting of the Council, Board or Committee.
- 3.8 To respond to any consultation or request for information from the Government; another local authority, or other body following consultation with the Chairman of the relevant Board or Committee.

- 3.9 To edit and publish the Council's external communications including Coastline in accordance with the Council's Editorial Policy.
- 3.10 To make any decisions about the sale of advertising or sponsorship in Council (or Council-related) publications or on Council property subject to legal, and other constraints and Council policy.
- 3.11 To appoint external agents or consultants to provide specialist services in respect of the Council's major development schemes, subject to compliance with Financial Regulations and Contract Procedure Rules.
- 3.12 To liaise with economic partnerships and other economic bodies to represent the Council's interests on economic issues.
- 3.13 To lead on and contribute to the PUSH Business Plan and oversee the implementation following consultation with the Chairman of the Economic Development Board.
- 3.14 To take any decisions or actions necessary in relation to economic development and regeneration including but not limited to the submission of funding bids, approving projects to meet agreed targets in the Corporate Plan and any projects relating to poverty, deprivation, employability, worklessness, tourism, international and European relations and economic development.
- 3.15 To sign on behalf of the Council Members' Declaration of Interest forms and to arrange for the maintenance of any statutory or voluntary registers of Members' interests.
- 3.16 To undertake all functions and responsibilities associated with emergency planning.
- 3.17 To undertake the discharge of any of the Council's functions relating to the welfare of civilians under the Civil Defence Acts 1937 – 1948 and under Section 138 of the Local Government Act 1972 as amended by the Civil Contingency Act 2004.
- 3.18 Authority to establish and maintain civil and

military emergency plans in accordance with legal or government requirements and to maintain liaison with the relevant civil and military bodies.

- 3.19 Authority to enter into agreements with other local authorities or third parties to deal with matters relating to community safety, crime and disorder and crime reduction.
- 3.20 To take any decisions or actions necessary in relation to community safety and anti-social behaviour including the submission of funding bids, approving projects related to community safety and anti-social behaviour; approving specific projects to meet targets in corporate plans and strategies; subject to 2.6 above including under Part 4 of the Anti-Social Behaviour, Crime and Policing Act 2014 excluding those provisions relating to the setting of fixed penalties (Section 52(7) & (8) and Section 68(6) & (7)).

4.0 Delegations to Borough Solicitor

4.1 General

- 4.1.1 Authority to act as the Council's Solicitor in all legal matters and to accept service on behalf of the Council of any legal document or process.
- 4.1.2 Authority (where this has not been delegated to any other Officer or is not within the Terms of Reference of any other Officer for the purposes of clause 3.2.2) to sign issue and serve all statutory notices in consultation with the relevant Chief Officer.
- 4.1.3 Authority to arrange for the sealing and/or signing of documents in accordance with the provisions of Appendix I.
- 4.1.4 Authority to seal mortgage discharges and other miscellaneous documents including all deeds and documents necessary to give effect to any decision of the Council or one of its Boards or Committee or an Officer exercising delegated powers under this scheme.
- 4.1.5 Authority to approve the use of the Borough Crest.

- 4.1.6 Authority on behalf of the Council
- 4.1.7 Authority to commence and/or defend any criminal proceedings on behalf of the Council.
- 4.1.8 To provide or arrange for the provision of legal advice to the Council, including obtaining Counsel's opinion and instructing external solicitors as appropriate either on a case by case, or in any other appropriate manner or form as determined by the Borough Solicitor.
- 4.1.9 To act as the Council's data protection officer and take all necessary steps under the Freedom of Information Act and all relevant secondary legislation and guidance.,
- 4.1.10 To determine all matters arising from the Commission for Local Administration in England (the Local Government Ombudsman) in whatever manner is appropriate, including the making of local settlements in consultation with the relevant Chief Officer and the Borough Treasurer in respect of financial settlements.
- 4.1.11 To settle any claim whether proceedings have been initiated or not where this is in the best interests of the Council following consultation with the Chief Executive, Section 151 Officer and relevant Chief Officer.
- 4.1.12 To amend the constitution where any change in law requires consequential change on the body of the constitution, provided such change is not so substantial as to warrant reporting to the Council for approval including, but not limited to typographical and structural changes and to amend any delegated powers.
- 4.1.13 To amend the Constitution where any change in the law requires a consequential change in the body of the Constitution, provided such change is not so substantial as to warrant reporting to the Council for approval including,

but not limited to typographical and structural changes .

- 4.1.14 To sign or endorse any documents on behalf of the authority where so requested by a citizen, eg authentication details.
- 4.1.15 To certify as a true and correct record any documents.
- 4.1.16 Following consultation with the Section 151 Officer and Chief Executive, to grant indemnities for Members and Officers within the terms of the Council's approved policy.
- 4.1.17 The Council's powers in consultation with the Head of Planning Services in relation to the making of Tree Preservation Orders and the confirmation of Tree Preservation Orders where no objections or observations have been received.
- 4.1.18 Power to correct clerical mistakes pursuant to Regulation 33 of the Licensing Act (Hearing) Regulations 2005 where the determination was made by the Licensing Sub-Board in consultation with the Chairman of that Sub-Board and where the determination was made under the Scheme of Delegation in consultation with the Officer making the determination.
- 4.1.19 Administration of the Council's complaints procedure
 - 4.1.20 To undertake negotiations on behalf of the Council in respect of proposed special events in the Borough

5.0 Delegations to the Section 151 Officer

- 5.1 Authority to arrange the borrowings necessary to finance the Council's Capital Development, to defray payment to be met from Revenue Funds pending the receipt of sums due in respect of the same period, or to replace debts paid.

- 5.2 Authority to invest or deposit any temporary surplus funds on the Wholesale Money Market.

NOTE: Transactions under 5.1 and 5.2 are to be in accordance with the Council's Treasury Management Strategy.

- 5.3 Authority to make all payments of money due from the Council.
- 5.4 Authority to write off debts due to the Council which he deems to be irrecoverable or uneconomic to pursue, other than debts in excess of any limit from time to time set by the Council.
- 5.5 Authority, after consultation with any other relevant Chief Officer, to approve the amount and period for repayment of any loan or mortgage within the limits of any scheme from time to time approved by the Council.
- 5.6 Authority in consultation to take proceedings for the collection of all money due to the Council under any statutory scheme of local taxation.
- 5.7 Authority to keep the statutory account, under the Local Government Act 1986, of the Council's expenditure on publicity and to make arrangements to enable persons to exercise their right to inspect and make copies of the account or any part of it.
- 5.8 The power to determine changes to the rate of interest on mortgage loans etc in accordance with any relevant statutory provisions.
- 5.9 To act as the Council's Anti Money Laundering Officer

6.0 Delegations to Borough Treasurer

- 6.1 To exercise all the powers and duties of the Council in relation to:
- Housing Benefit and Local Council Tax Support Scheme
 - National Non-Domestic Rates; and
 - Council Tax
- save for those functions specifically excluded from delegation or by legislation.

- 6.2 To review annually or at such other periods as is considered necessary all risks and insurances following consultation with appropriate Chief Officers and make arrangements and agree terms with insurers for those risks considered to be economic to transfer to the Council's insurers.
- 6.3 To indemnify / insure directly or indirectly persons, other than Members / Officers, involved in Council activities.
- 6.4 The central procurement of furniture, equipment, stationery and other goods not delegated to other Officers.

7.0 Delegations to the Head of Planning Services

7.1 Planning Matters

7.1.1 The determination of planning applications relating to the following types of proposals, including applications made by or on behalf of the Council but excluding applications from Officers of the Council; Members of the Council; or any member of their family, provided that:

- (i) in the case of any application approved under these delegated powers the proposals comply with the Borough Local Plan, and
 - (ii) where objections have been received, or where supporting representations have been received for an application that is proposed to be refused, no Member has given written notice (within 5 working days of being notified in writing of a proposal to determine an application under this paragraph) that such an application must be referred to the Regulatory Board for determination
- (a) Householder applications including:-
 - Private Garages,
 - Extensions and other ancillary structures;
 - (b) Boundary walls, fences etc;
 - (c) Vehicular accesses;
 - (d) All applications for advertisement consent;
 - (e) Submission of reserved matters;
 - (f) Applications for temporary consents;

- (g) The erection of extensions to non-residential premises;
- (h) Changes of use or sub-division of existing premises including A1 to A2; A1 to residential;
- (i) Protected trees and trees in Conservation Areas;
- (j) Non Material, and Minor Material Changes to permissions, consents, approvals, approved plans and details;
- (k) The erection of extensions and alterations to Listed Buildings;
- (l) Variation of Conditions;
- (m) Applications for development classified as Minor including new shop fronts; alterations to existing shop fronts save that the limit for residential units shall be 6;
- (n) Extension of Time

7.1.2 Responding to the following notifications and minor consultations from:-

- (a) Hampshire County Council;
- (b) Fareham Borough Council;
- (c) Portsmouth City Council.

7.1.3 Determination of Lawful Development Certification applications (Sections 191 and 192 of the Town and Country Planning Act 1990 as amended) and Certificate of Lawfulness of Proposed Works applications under Section 26H of the Planning (Listed Buildings and Conservation Areas) Act 1990.

7.1.4 Authority, in accordance with Article 4 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 to request the submission of such further detail as he considers necessary to enable an application for outline planning permission to be determined.

7.1.5 Authority to respond to any notification or application made to the Council under the terms of any

Development Management Procedure Order or General Permitted Development Order for the time being in force.

- 7.1.6 The approval of conditions (including, in consultation with the Borough Treasurer, for the assessment of any commuted sum payable) for the future maintenance by the Council of any land which is proposed to be dedicated or transferred to the Council for use for open space or public amenity purposes.
- 7.1.7 Applications to discharge conditions.
- 7.1.8 The functions and powers of the Council in relation to High Hedges under Part 8 of the Anti-Social Behaviour Act 2003 (the Act) excluding the function of setting the level of fee and refunding fees in Sections 68 (1) (b) and (8), of the Act.
- 7.1.9 On receipt of a Hedgerow Removal Notice, authority to determine whether the hedge is “important” in accordance with the Hedgerow Regulations 1997 except in respect of hedgerows owned by the Council.
- 7.1.10 Authority to enter into agreements or obligations which arise from applications decided under delegated powers and power to discharge or modify such agreements or obligations in consultation with the Borough Solicitor.
- 7.1.11 Without prejudice to the general authority contained in paragraph 3.2 of this Scheme of Delegation all the Council’s powers to take all enforcement action authorised under the Town and Country Planning Act 1990, the Planning Hazardous Substances Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 2004 including (but without prejudice to the generality of the foregoing) the issue, variation and withdrawal of enforcement notices and listed building enforcement notices, stop and temporary stop notices, planning contravention notices, breach of condition notices, completion notices, hazardous substances contravention notices, building preservation notices, urgent works notices and the carrying out of works in default and the

recovery of expenses in connection therewith and in the case of legal proceedings subject to the requirements of paragraphs 4.1.10, 4.1.12 and 4.1.13

7.1.12 Authority to issue a notice under Section 215 of the Town and Country Planning Act 1990 (proper maintenance of land).

7.1.13 Authority to decide whether an Environmental Assessment or Environmental Statement is required for any planning application to be determined.

7.1.14 Authority to deal with all future applications for screening and scoping opinions under the Town and Country Planning (Environmental Impact) (England and Wales) Regulations 1999.

7.1.15 To decline to determine:

- (a) subsequent applications under Section 70A of the Town and Country Planning Act 1990;
- (b) overlapping applications under Section 70B of the Town and Country Planning Act 1990;
- (c) subsequent applications under Section 81A of the Listed Buildings Act 1990; and
- (d) overlapping applications under Section 81B of the Listed Buildings Act 1990.

7.1.16 Authority in consultation with the Borough Solicitor where an appeal is pursued following a refusal of any application whether determined under delegated powers or by the Regulatory Board or against non determination by the Local Planning Authority to enter into or accept planning obligations where these would overcome a reason for refusal and then to withdraw the reason for refusal.

7.1.17 Authority to determine applications under the Conservation of Habitats and Species Regulations 2010.

7.2 The erection of any notice or the taking of any other action to promote road safety.

7.3 To seek planning permission, Conservation Area consent and Listed Building consent in accordance

with the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990, subject to:

i the Head of Development Management being given 14 days to comment on the proposal prior to the submission of the formal application, and

ii the Head of Development Management agreeing that the proposal is not in conflict with any planning policy of the Council

7.4 To publish the Annual Monitoring Report to the Local Development Framework.

7.5 Local Land Charges

7.51 To carry out all functions and responsibilities associated with the Local Land Charges Act 1975 including maintaining and operating the Register of Local Land Charges; and authority, so far as such charges are not prescribed, to agree the scale of charges for responding to Land Charges Searches and replying to Supplemental Enquiries.

7.6 Transport and Traffic

7.6.1 Power to authorise temporary road closures or prohibitions or restriction of traffic in accordance with any relevant statutory provisions including to grant permission for the closure of any highway for celebrations such as street parties provided the Police do not object and the Council are indemnified against any third party claims.

7.6.2 Authority to make vary or rescind Traffic Regulation Orders.

7.6.3 Authority to approve road openings for private purposes.

7.6.4 Authority to issue and refuse any permit, licence, approval or consent (including the power to impose conditions and to rescind any

permit, licence etc granted) under the Highways Act 1980.

8.0 Delegations to the Building Control Manager

Note: The Council has delegated its Building Control functions to Fareham Borough Council and Portsmouth City Council as part of the joint provision of Building Control Services. Fareham Borough Council and Portsmouth City Council have delegated their Building Control functions to Gosport Borough Council.

- 8.1 The approval and disapproval of all plans submitted for building control purposes.
- 8.2 All the Council's powers under any Building Regulations for the time being in force.
- 8.3 All the Council's powers in relation to dangerous structures and buildings under Sections 77, 78, 81 and 82 of the Building Act 1984.
- 8.4 All the Council's powers under Sections 11, 12 and 13 of the Hampshire Act 1983.
- 8.5 All the Council's powers in relation to the naming and numbering of streets and properties and the alteration of street names and property numbers.

Note: this power shall not be exercised until the Ward Members within whose Ward the street or property concerned is situated have been consulted in writing by the Building Control Manager and none has, within a period of seven days from the date of the written consultation, objected. If any Ward Member does so object the matter shall be considered by the relevant Board.

- 8.6 All the Council's powers under the Building Act 1984 in respect of a breach of building regulations, enforcement, defective premises and demolition, supervision of building work other than by Local Authorities.
- 8.7 All the Council's powers to act as a third surveyor under the Party Wall etc., Act 1996.

9.0 Delegations to the Housing Services Manager

- 9.1 The day-to-day management of the Council's housing stock and associated land including setting the terms of any tenancy agreement, the collection of rents, the prioritisation and selection of tenants, the grant, transfer, assignment and exchange of tenancies of Council houses and garages and the acceptance of surrenders.
- 9.2 Authority, within the context of the Council's relationship with any Registered Provider registered under the Housing Act 1996 or Housing and Regeneration Act 2008:-
- (a) To agree the terms of and enter into Nomination Agreements;
 - (b) To select and nominate applicants for accommodation under the terms of any Nomination Agreement;
 - (c) To enter into reciprocal arrangements with any Registered Provider for the housing of tenants;
 - (d) To respond to and agree proposals received from the Homes and Communities Agency in relation to grant funding for affordable housing to Registered Providers of Social Housing.
- 9.3 The issue and signing of all Notices to Quit and Notices Seeking Possession and Notices of Possession Proceedings where the form of the Notice has been approved by the Borough Solicitor.
- 9.4 Authority to issue landlord's offer notices under any Right-to-Buy legislation.
- 9.5 Authority to take whatever action is necessary to provide, in accordance with statutory requirements, accommodation for persons who are homeless under Part VII of the Housing Act 1996 or threatened with homelessness including authority to enter into leases or licences in respect of private housing accommodation and authority to make payments to third parties for such accommodation or under any damage deposit or similar scheme.

- 9.6 Authority to issue and represent the Council in County Court proceedings for the recovery of rent arrears.
- 9.7 All matters relating to the issue and signing of applications for Warrants of Possession including authority to attend and represent the Council in any associated County Court hearing.
- 9.8 All matters relating to the determination of applications for accommodation under Part VI of the Housing Act 1996 including arranging temporary accommodation whilst enquiries are made.
- 9.9 The grant or refusal of any consent to proposed works to former Council owned properties under the terms of any relevant restrictive covenant.
- 9.10 Authority to make Home Loss Payments under the provisions of Section 29 of the Land Compensation Act 1973 (as amended), Discretionary Home Loss Payments under the provisions of Section 32(7) of the Act and disturbance payments under the provisions of Section 37 of the Act where he is satisfied in each case that all relevant statutory requirements have been complied with.
- 9.11 All matters relating to the determination and payment of applications for financial assistance under the terms of any Cash Incentive, Right to Compensation for Improvements and Right to Repair or other scheme for the payment of money to secure tenants of Council owned residential accommodation.
- 9.12 The determination of service charges payable by leaseholders of former Council flats and maisonettes.
- 9.13 The Council's functions under the Home Energy Conservation Act 1995
- 9.14 Management of the Council's non-housing portfolio.
- 9.15 Management of any Council-owned permanent residential caravan site

Note: The Council has delegated its Environmental Health and Licensing functions to Fareham Borough Council as part of the joint provision of Environmental Health and Licensing Services including all enforcement powers set out in Paragraph 3.2 of this Scheme but excluding 3.2.6 and subject where specified in paragraph 3.2 to consultation with

the Borough Solicitor and also subject to paragraphs 4.1.10, 4.1.12, 4.1.13, 4.1.15 and 4.1.18 of this Scheme of Delegations. Fareham Borough Council has delegated its Environmental Health and Licensing functions to Gosport Borough Council.

NOTE: For the following delegations the whole Act/Regulations as appropriate are delegated unless specifically stated otherwise

9.16 Authority, in respect of any Council-owned land or property which is currently vacant and unused and is not currently required for Council purposes, and after consultation with the relevant Board Chairman and the Borough Solicitor, and in the interests of good management, to authorise the grant and renewal of leases and licences subject to the following conditions:-

- (a) The lease or licence shall not exceed £100,000 over the term of the lease ;
- (b) There are no plans for the use of the land or property for any Council purpose within that period;
- (c) The terms of the proposed lease/licence have been approved by the Borough Solicitor in consultation with the Council's valuer; and

The arrangement is intended to be a temporary arrangement and the Borough Solicitor is reasonably satisfied that the Council will be able to recover possession of the land at the end of the agreed term or if it is required for redevelopment.

9.17 Authority to authorise the disposal of small areas of Council-owned land within the day-to-day control of the relevant Chief Officer subject to the following conditions:-

- (a) The value of the land shall not exceed £20,000 and the land shall not form part of a larger area having a value in excess of £20,000;

- (b) The land has no current use and is, in the opinion of the Officer, surplus to the Council's requirements;
- (c) The Head of Property Services has consulted all relevant Service Unit Managers, the Head of Development Management and other relevant Officers and none has objected to the disposal;
- (d) The Head of Property Services has consulted the Ward Members within whose Ward the land is situated and none have objected to the disposal.

Note: In a case where an Officer has objected under (c), or a Ward Member under (d) and it has not been possible to resolve that objection, the matter shall be considered by the relevant Board.

- 9.18 Authority to consent to the assignment, surrender, or novation of any lease, licence, contract or other similar obligation where he/she is satisfied that such action is in the Council's best interests and, in the case of any assignment or novation, that this is on terms no less favourable to the Council than those contained in the original agreement.
- 9.19 Authority to dispose of the reversionary interest in any leasehold land and property in respect of which the original term was not less than 99 years and the rent payable is a Ground Rent and any other leasehold land and property where the sale is in pursuance of any lessees' rights of enfranchisement under the Leasehold Reform Acts.
- 9.20 Authority, after consultation with the relevant Chief Officer, to grant or refuse any application for consent under the terms of any lease or licence.

Note: An application for consent for a change of the permitted use of any land or property shall not be exercised until the Ward Members within whose Ward the land is situated have been consulted in writing by the Borough Solicitor and none have, within a period

of seven days from the date of the written consultation, objected. If any Ward Member does so object the matter shall be considered by the relevant Board.

9.21 Authority, after consultation with any other relevant Chief Officer, to consent to the grant, renewal or variation of any easement covenant or wayleave upon such terms as have been recommended by the Council's valuer.

9.22 To appear and to authorise officers including those not within the managerial control of the Borough Solicitor to appear on behalf of the Council in proceedings in the County Court, pursuant to Section 60 of the County Courts Act 1984, as amended by 125(7) of the County and Legal Services Act 1990, and in the Magistrates' Court pursuant to Section 223 of the Local Government Act 1972.

Licensing Matters

9.23 Subject to the policies of the Council the Council's powers and duties in relation to the grant, suspension and renewal of the following Licences under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976:-

- Private Hire Vehicle Licences;
- Private Hire Driver's Licences;
- Private Hire Vehicle Operator's Licences;
- Hackney Carriage Driver's Licences; and
- Hackney Carriage Licences.

9.24 All the Council's powers relating to Licences and permits for Street Collections and House-to-House Collections (Police Factories etc (Miscellaneous Provisions) Act 1916 and the House-to-House Collections Act 1939).

9.25 All the Council's powers under the Lotteries and Amusements Act 1976 and the Lotteries Act 1976.

9.26 Determination of applications for registration under the Vehicles (Crime) Act 2001.

9.27 Determination of the following applications under the Licensing Act 2003 where no representation is made:-

- Personal Licence excluding applications where the applicant has unspent convictions;
- Premises Licence;
- Club Premises Certificate;
- Provisional Statement;
- Variation to Premises Licence;
- Variation to Club Premises Certificate;
- Variation to Designated Premises Supervisor excluding applications where there is an objection from the Police;
- Transfer of Premises Licence excluding applications where there is an objection from the Police; and
- Interim authorities excluding applications where there is an objection from the Police.

9.28 The Council's functions and powers under the Licensing Act 2003 and to regulations made thereunder to:-

- Determine requests to be removed as a Designated Premises Supervisor;
- Determine whether a complaint is irrelevant, frivolous or vexatious;
- Issue notices of hearing pursuant to the Licensing Act 2003 (Hearing) Regulations 2005 ('the Regulations') and information to accompany that notice including any particular points of which the authority considers that it will want clarification of at the hearing from a party (pursuant to Regulation 7);
- Extend time limits pursuant to Regulation 11 of the Regulations;
- Carry out the administration of applications, the issuing of licences (including those determined on appeal) by the Magistrates' Court and the compilation and maintenance of registers.

9.29 Licensing Act 2003 Section 179- Right of Entry to investigate Licensable offences.

- 9.30 To authorise Officers as required by Section 304(3)(b) of the Gambling Act 2005.
- 9.31 Determination of the following applications under the Gambling Act 2005 where no representation has been received or such representation has been withdrawn:-
- Premises Licence;
 - Variation to a Licence;
 - Transfer of a Licence;
 - Provisional Licence; and
 - Club gaming/club machine permits.
- 9.32 Determination of the following matters under the Gambling Act 2005:-
- Applications for other permits;
 - Cancellation of licensed premises gaming machine permits;
- and
- Consideration of temporary use notices.
- 9.33 To initiate enforcement action, save in respect of legal proceedings and subject to any other provisions within the Council's Scheme of Delegation, under the Gambling Act 2005.
- 9.34 Renovation Grants- All the Council's powers relating to the administration, approval, refusal and to payment of Grants for the renovation and improvement of residential properties under any relevant statutory provision including, in consultation with the Borough Treasurer, the determination of hardship status.
- 9.35 Without prejudice to any general authority contained in Paragraph 3.2.2 of this Scheme of Delegation, all the Council's powers subject, in the case of legal proceedings to the requirements of paragraphs 4.1.10 and 4.1.12 of this Scheme, under the following statutory provisions which includes any regulations made under the Statute or the European Communities Act 1972:-

Housing Act 1985

The relevant Sections of the Act, remaining in force, dealing with powers concerning private dwellings including Section 265 (Demolition Orders) and Section 289 (Clearance Areas)

Housing Act 1996

Part II – registration of houses in multiple occupation

Local Government and Housing Act 1989

Part VII – renewal areas

Part IX – miscellaneous

Part XIII – administration, approval, refusal and payment of grants

Housing Grants, Construction and Regeneration Act 1996

Part I – grants

Part II – group repair

Part III – Home Repair Assistance

Part IV – deferred action

Housing Act 2004

Part 1 – Housing Conditions

Section 4 – Including appointment as Proper Officer and carry out inspections

Section 11 – To serve an Improvement Notice for Category 1 hazard

Section 12 – To serve an Improvement Notice for Category 2 hazard

Section 14 – To suspend an Improvement Notice

Section 16 – To revoke or vary an Improvement Notice

Section 17 – To review a suspended Improvement Notice and give notice of the decision on a review

Section 20 – To make and serve a Prohibition Order in respect of Category 1 hazards

Section 21 – To make and serve a Prohibition Order in respect of Category 2 hazards

Section 23 – To suspend a Prohibition Order

Section 25 – To revoke or vary a Prohibition Order

Section 26 – To review a suspended Prohibition Order and to serve notice of the decision of any review

Section 28 – To serve a Hazard Awareness Notice relating to a Category 1 hazard

Section 29 – To serve a Hazard Awareness Notice for a Category 2 hazard

Section 31 and Schedule 3 – To take action in respect of an Improvement Notice

Sections 40 and 41 – To take emergency remedial action where there is a Category 1 hazard and to serve the requisite notices.

N.B. subject to consultation with Hampshire Fire and Rescue Authority in respect of a fire hazard, in accordance with Section 10.

Section 43 – To serve an Emergency Prohibition Order for Category 1 hazard

Section 49 – To make a charge for enforcement action

Part 2 – Licensing of Houses in Multiple Occupation

The Council's functions of licensing Houses in Multiple Occupation ('HMO') as set out below excluding the setting of the fee to accompany the application

Section 62 – To serve a temporary exemption from the licensing requirement for HMOs

Sections 64, 69 and 70 – To grant or refuse a licence for an HMO, to vary or revoke the licence

Section 73 – to apply for a rent repayment order, and to serve the requisite notices

Part 3 – Selective Licensing of Other Residential Accommodation

Section 96 – To apply for a rent repayment order and to serve the requisite notices

Part 4 – Additional control provisions in relation to Residential Accommodation

Sections 102, 111 and 112 – To make, vary and revoke interim management orders

Sections 113, 121 and 122 – To make, vary and revoke final management orders

Section 131 – Power of entry to carry out works where a management order is in force, and to appoint, in writing, persons to enter the premises to carry out work

Section 133 – To make an interim empty dwelling management order

Section 136 – To make a final empty dwelling management order

Section 139 – To serve an overcrowding notice

Section 144 – To revoke and vary overcrowding notices

Section 235 – To serve notice requiring documents to be produced

Section 239 – To enter premises for purposes of carrying out a survey or examination

Section 239 – To be the Proper Officer for determining if a survey or examination is necessary

Section 255 and 256 – To serve, and to revoke, an HMO Declaration Notice

Environmental Protection Act 1990

The whole Act excluding the Council's functions and powers:-

- To specify fixed penalties and make provision for treating it as having been paid if a lesser amount is paid before the end of a period specified by the Council.
- To enter into arrangements with persons to exercise the Council's function of giving fixed penalty notices.
- To designate land under paragraph 2 of Schedule 3A and set fees under paragraph 4 of Schedule 3A of the Act.

But including the authorisation of authorised officers to give fixed penalty notices.

Clean Neighbourhoods and Environment Act 2005

Enforcement of provisions relating to Alarm Notification Areas designated under Section 69.

Authorisations of authorised officers to give fixed penalties under Section 73.

Environment Act 1995

Part II – contaminated land

Part IV – air quality

Section 108 – powers of enforcing authority and persons authorised by them

Section 109 – power to deal with cause of imminent danger of pollution

Schedule 18 – supplementary provisions in respect of powers of entry

Noise Act 1996

The whole Act excluding Section 8A but including the authorisation of authorised officers to give fixed penalty notices under Section 8A

Noise and Statutory Nuisance Act 1993

Control of Pollution Act 1974

Part III – Noise, Section 73 power to obtain information

Clean Air Act 1993

Motor Cycle (Noise) Act 1987

Pollution Prevention and Control Act 1999

Prevention of Damage by Pests Act 1949

The Environmental Damage (Prevention and Remediation) Regulations 2009

Health and Safety at Work etc Act 1974

The whole Act including appointing appropriately qualified Inspectors and the Proper Officer for the signature and issue of any Licence, Registration, Certificate, Order, Notice or other document under :-

- Section 18 – enforcement
- Section 19 - appointment of Inspectors (including authority to define the powers of any Inspector under Section 20)
- Section 21 – Improvement Notices
- Section 22 – Prohibition Notices
- Section 25 – Power to deal with causes of imminent danger

Factories Act 1961

Offices Shops and Railway Premises Act 1963

Food Safety Act 1990

The whole Act including appointment as the Proper Officer for the signature and issue of any Licence, Registration, Certificate, Order, Notice or other document under the Act including :-

- Section 5 – Appointment of authorised officers
- Section 6 – Enforcement of the Act
- Section 9 – Inspection and seizure of suspected food
- Section 10 – Improvement Notices
- Section 12 – emergency Prohibition Notices and Orders

Food Act 1984

The whole Act including appointment as the Proper Officer for the signature and issue of any Licence, Registration, Certificate, Order, Notice or other document under the Act

Food & Environment Protection Act 1985

The whole Act including appointment as the Proper Officer for the signature and issue of any Licence, Registration, Certificate, Order, Notice or other document under Part III of the Act

Game Act 1831

The Food Safety and Hygiene (England) Regulations 2013

The General Food Regulations 2004

Regulation (EC) no. 178/2002

Regulation (EC) no. 852/2004

Regulation (EC) no. 853/2004

Regulation (EC) no.854/2004

The Products of Animal Origin (Import and Export) Regulations 1996

The Trade in Animals and Related Products Regulations 2011

Official Feed and Food Control (England) Regulations 2006

Contaminants of Food (England) Regulations 2003

European Communities Act 1972

Any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972; and any modification or re-enactment to the foregoing

Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998

Power to appoint Officers of Police and Solent Sea Fisheries for enforcement purposes

Public Health Act 1961

Section 17 – summary power to remedy stopped up drains

Section 22 – power to cleanse or repair drains

Section 34 – removal of rubbish

Section 36 – power to require the vacation of premises for fumigation

Section 37 – prohibition for sale of verminous articles

Section 73 – derelict petrol tanks

Section 74 – power to reduce numbers of pigeons and other birds in built-up areas

Public Health Act 1936

Part II – Sanitation and Buildings

Health Act 2006

Animal Boarding Establishments Act 1963

Animal Welfare Act 2006

Breeding of Dogs Act 1973

Breeding and Sale of Dogs (Welfare) Act 1999

Breeding of Dogs Act 1991

Dangerous Wild Animals Act 1976

Pet Animals Act 1951

Riding Establishments Acts 1964 & 1970

Zoo Licensing Act 1981

Animal Health Act 1981

Animal Welfare Act 2006

Dangerous Dogs Act 1991

Guard Dogs Act 1975

Local Government (Miscellaneous Provisions) Act 1976

Section 16 – Requisition for information

Section 20 – Provision of sanitary appliances at places of entertainment

Section 35 – removal of obstruction from private sewers

Section 33 – restoration of water supply

Local Government (Miscellaneous Provisions) Act 1982

Part II – control of sex establishments

Part III – Street trading

Part VIII – Acupuncture, tattooing, ear-piercing and electrolysis

Part XI – Public Health etc

Part XII – Section 37 – temporary markets

Schedule IV – issue of trading consents and licences

Building Act 1984

Part III (except Sections 77, 78, 81 and 82)

The Control of Pesticides Regulation 1986

The Control of Pesticides (Amendment) Regulations 1997

The Plant Protection Products (Sustainable Use) Regulations 2012

Regulations 18, 19, 20, 21, 22 and Schedule 3

Caravan Sites and Control of Development Act 1960

Part I (except Section 24)

Caravan Sites Act 1968

Anti-Social Behaviour, Crime and Policing Act 2014

Part 4 Chapters 1, 2 and 3 excluding those matters covered by paragraph 2.6 of this Scheme of Delegation and the setting of fixed penalties (Section 52(7) & (8) and Section 68(6) & (7))

Scrap Metal Dealers Act 1964

Town and Country Planning Act 1990

Section 224 and Section 225

Wildlife and Countryside Act 1981

Part I-Wildlife

The Private Water Supplier Regulations 1991

Water Industry Act 1991

Water Industry Act 1999

Lotteries and Amusements Act 1976

Lotteries Act 1993

Sunday Trading Act 1994

Theatres Act 1968

Sunbeds (Regulation) Act 2010

Hampshire Act 1983

Section 4-Hairdressers and Barbers

Highways Act 1980

Part V11A – Provision of Amenities on Certain Highways

9.36 Authority to enter into reciprocal enforcement arrangements relating to the detention, examination and seizure of food with other local authorities in England and Wales.

9.37 Power to appoint officers of the Health Authority to undertake the Council's duties with respect to infectious diseases.

9.38 The Council's powers under Section 7 of the Hampshire Act(touting on the highway).

Delegation to Head of Streetscene

10.01 Authority to determine any fee or charge for special events and irregular lettings of recreational facilities and to fix a scale of charges for the use of recreational facilities so far as such charges are not included in the scale of fees and charges approved by the Council.

- 10.02 The fixing of charges for consumable items sold at the Council's recreational facilities.
- 10.03 The management of the Council's moorings.
- 10.04 Responsibility for the management of the Council's parks and service facilities.
- 10.05 Responsibility for the management of the Council's leisure facilities, and development of recreation facilities.
- 10.06 Responsibility for the operation and management of all car parks covered by the Council's car parking order including enforcement.
- 10.07 The issue and transfer of Grants of Exclusive Rights of Burial.
- 10.08 The exercise of Council's powers and duties under Section 46 of the Public Health (Control of Disease) Act 1984 (burial and cremation where no other arrangements have been made).
- 10.09 The maintenance of any street furniture and amenity lighting.
- 10.10 Authority to deal with the removal and disposal of abandoned vehicles.
- 10.11 All the Council's powers under the Refuse Disposal (Amenity Act) 1978 excluding the setting of fixed penalties (Section 2A(8), (9) & (10)).
- 10.12 Authority to deal with waste, refuse, litter, fly tipping and graffiti excluding the setting of fixed penalties.

Note: The following delegations may only be exercised where the decision relates to a matter which, in the opinion of the Officer, is wholly within or affecting one particular Ward only of the Borough and then only after the Ward Members for that Ward have been given written notice of the proposed exercise of the delegation and none of them has, within seven days of such notice, objected to the exercise of the delegation in which case, unless the objection can be resolved, the matter will be referred to the Community Board.

Delegation to Head of Information Technology

- 11.0 Management of all matters relating to information technology for the Council.

STATUTORY OFFICER APPOINTMENTS

Chief Executive

Head of the Paid Service - Section 4 Local Government and Housing Act 1989.

Borough Treasurer

1. Responsibility for the proper administration of the Council's financial affairs - Section 151 Local Government Act 1972.
2. Receipt of all monies and banking arrangements - Section 115(2) of the Local Government Act 1972.
3. Registrar of loan instruments - Section 46 of the Local Government and Housing Act 1989.
4. Maintenance of an adequate and effective system of internal audit of the Council's accounting records and control systems - Regulation 5 of the Accounts and Audits Regulations 1996.

NB: The Head of Accountancy is appointed to act as Proper Officer in the absence of the Borough Treasurer.

Borough Solicitor

1. The Council Solicitor with full power to serve and accept service of any legal document or process except where authority has been specifically delegated to any other Officer.
2. Monitoring Officer - Section 5 of the Local Government and Housing Act 1981.
3. Appointment of Proper Officer in relation to:-
 - (a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than

the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Town Clerk of a Borough which, by virtue of any provisions of the said Act was to be construed as reference to the Proper Officer of the Council.

- (b) Any reference in any local statutory provision to the Town Clerk of Gosport which, by virtue of an Order made under Section 254 of the Local Government Act 1972, was to be construed as a reference to the Proper Officer of the Council.
- (c) Any reference in the Local Government Act 1972 to the Proper Officer of the Council other than Section 115(2).
- (d) Any reference in any enactment passed after the 1971/72 session of Parliament or to be passed to the Proper Officer of the Council unless or until a specific appointment of another Officer has been made by the Council.

5. The Proper Officer for the following provisions of the Local Government Access to Information Act 1985:-

Section 100B(2) - excluding reports from public agendas;

Section 100B(7) - Supplying additional documents to the Press;

Section 100C(2) - making written summary of confidential proceedings;

Section 100D(1) - compiling list of background papers;

Section 100D(5) - defining background papers; and

Section 100F(2) - restricting disclosure of exempt information to Members.

NB: The Head of Legal Services is appointed to act as Proper Officer in the absence of the Borough Solicitor.

6. The Proper Officer for the grant of any consent or licence and the giving of any notice under the Highways Act 1980.

Housing Services Manager

NOTE: The Council has delegated these functions to Fareham Borough Council

1. The Proper Officer in relation to the signature of all operators, drivers and vehicle licences in respect of Hackney Carriage and private hire vehicles under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.
2. The Proper Officer for the signature and issue of any licence, registration, certificate, order, notice or other document under the following :-

Public Health (Control of Disease) Act 1984;
Public Health (Infectious Disease) Regulations 1968;
Local Government (Miscellaneous Provisions) Act 1982:-

Part I-licensing of public entertainments;

Part II - control of sex establishments;

Part III - street trading;

Part VIII - Acupuncture, tattooing, ear piercing and electrolysis;

Part XI - public health etc;

Schedule IV- issue of street trading consents and licences;

Highways Act 1980 Part VIIA – Provision of Amenities on Certain Highways.
3. Signature of any consents, orders, demands or other documents under the Building Act 1984 Sections 59-76, 79, 84 and their authentication as provided by Section 93.

Head of Property Services

1. Registrar of Local Land Charges.

The Proper Officer in relation to the receipt of any application and the issue of any permission or refusal of permission under the Town and Country Planning Act 1990.

Building Control Manager

The Proper Officer in relation to any notice, approval or other matter under the Building Act 1984.

APPENDIX 1

GOSPORT BOROUGH COUNCIL SCHEME OF DELEGATION TO OFFICERS

SEALING OF DOCUMENTS

- (a) The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council or of any Board or Officer having delegated powers in that behalf or where the sealing of any document is necessary to give effect to any lawful decision of the Council or of any Board or of any decision properly made under delegated powers.
- (b) The Common Seal shall be attested by the Chief Executive or the Borough Solicitor or the Head of Legal Services or Senior Solicitor (Litigation) and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for that purpose and shall be signed by the person who attested the Common Seal. The Common Seal may also be attested by the Mayor or the Deputy Mayor when affixed to any document which is, in the opinion of the Borough Solicitor or of the Head of Legal Services, used for any ceremonial purpose. No document used for such purpose shall, however, be invalidated by the failure of the Mayor or the Deputy Mayor to attest the Common Seal.
- (c) The Chief Executive, the Borough Solicitor, the Head of Legal Services or Senior Solicitor (Litigation) shall be authorised to sign on behalf of the Council any agreement or other document not required to be executed under seal, provided that the subject matter has been approved by the Council or a Board or Sub-Board of the Council or is to put into effect a decision made by an Officer acting under delegated powers.