

## Scheme of Delegation

### 1) The Council

1.1 The following matters are reserved to the Council for decision, notwithstanding that an appropriate Committee(s) may also make recommendations for the Council's consideration:

Decisions may be taken in a physical meeting or a virtual meeting where the law permits

- Setting the Precept
- Borrowing money
- Approval of the Council's Annual Accounts and completion of the Annual Return
- Making, amending or revoking Standing Orders, Financial Regulations or this Scheme of Delegation
- Making, amending or revoking bye-laws
- Making of Orders under any statutory powers
- Matters of principle or policy
- Nomination and appointment of representatives of the Council to any other authority, organisation or body (excepting approved conferences or meetings)
- Any proposed new undertakings
- Prosecution or defence in a court of law
- Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish, excluding those matters specific to a committee
- All other matters which must by law be reserved to the full Council

1.2 The Council may appoint Committees from time to time under Section 101 of the Local Government Act 1972 and Working Groups (up to 7 members with a majority of Council members over cooptees) on a "task and finish" basis to deal with any ad-hoc, specific issues or projects as necessary

### 2. The Clerk/RFO/Allotments Officer (and Assistant RFO/Allotments Officer)

2.1 The Clerk to the Council shall be the Proper Officer of the Council and as such is specifically authorised to:

Receive declarations of acceptance of office

Receive and record members' interest

Receive and grant all dispensations according to the Council's Code of Conduct; details of all dispensations received and granted to be reported to the Council at the next available meeting.

Receive and retain plans and documents

Sign notices or other documents on behalf of the Community Council

Receive copies of bye-laws made by a primary local authority

Certify copies of bye-laws made by the Community Council

Sign summons to attend meetings of the Community Council – These may be physical meetings or a virtual meeting where the law permits

To institute and appear in any legal proceedings authorised by the Community Council

To seek, apply for and accept grants or other funding for Community Council projects

To agree matters relating to events within the Parish whether organised directly or by third party organisers

2.2 The Clerk to the Council may also be the Responsible Financial Officer (RFO) to the Council and if appointed as such shall be responsible for the Council's accounting procedures, in accordance with the Accounts and Audit Regulations in force at any given time.

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2.3 In addition, the Clerk has the delegated authority to undertake the following matters on behalf of the Council:

- Day to day administration of services together with routine inspection and control
- Day to day supervision and control of all staff employed by the Council
- Implement national pay awards and conditions of service in line with the National Joint Council Scheme of Conditions of Service as amended by Local Agreement
- Authorisation to call any extra-ordinary meetings of the Council or any Committee as necessary, having consulted with the Chair of the Council, and/or the Chair of the appropriate Committee
- Authorisation to respond immediately to any correspondence requiring or requesting information or relating to previous decisions of the Council (but not correspondence requiring an opinion or decision to be taken by the Council or its Committees)
- Authorisation of routine recurring expenditure within the agreed budget according to the Council's appropriate financial regulation
- To act as the Council's designated officer for the purposes of the Freedom of Information Act 2000

2.4 Delegated actions of the Clerk to the Council shall be in accordance with Standing Orders, Financial Regulations and this Scheme of Delegation and in line with directions given by the Council from time to time.

2.5 The Openness of Local Government Bodies Regulations 2014 require a written record to be kept of certain decisions made by an officer of a Parish Council acting under delegated powers. The decisions are those:

- made under a 'specific express authorisation', or
- made under a general authorisation where the effect of the decision is to;
  - i) grant a permission or licence,
  - ii) affect the rights of an individual, or
  - iii) sign a contract or incur expenditure which significantly affects the financial position of the Council.

*Examples of decisions that should be recorded could include:*

- decisions about awarding contracts above specified individual/total values (the values will vary according to the relevant parish or town council); and
- decision to renew a lease to an allotment association

*Decisions that do not need to be recorded might include the following examples*

- routine administrative and organisational decisions such as the purchase of office supplies or repairs;
- decisions to book rooms or sports grounds; and decisions to approve works undertaken by a contractor

2.6 The Clerk has authority to incur emergency expenditure up to £500. The Parish Council does not consider that such expenditure is likely to significantly affect the financial position of the Council. Expenditure in excess of these limits must be authorised by a committee with full delegated power or by Full Council and the decision will be recorded in the Minutes.

2.7 If a written record is required of an officer's decision, the record will be published on the Council's website and made available for inspection in the Council's office in the same way as Minutes of a Meeting

Allotments Officer

2.8 The Allotments Officer is specifically authorised to

- a) Respond to routine procedural matters and correspondence not deemed to require a Committee or Council decision

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- b) To approve or refuse proposals for new constructions and facilities on the allotment plots
- c) To undertake regular inspections of the allotment plots and to correspond with tenants in breach of, or potentially in breach of, their terms and conditions of tenancy and/or in the interests of Health and Safety
- d) To agree extensions of time to allow tenants to meet contractual commitments
- e) To terminate a tenancy where there is a clear and continuing breach of tenancy terms and conditions subject to agreement of the Chair of the Committee and report to the next available Committee
- f) To appoint new tenants from the Waiting list

To represent the Council at tenant and other allotment organisation meetings

### **3. Urgent matters:**

3.1 In the event of any matter arising which requires an urgent decision, the Clerk shall consult with the Chair and Vice-Chair of the Council and where appropriate, the portfolio holder if the Council will incur expenditure not provided for in the annual budget, and not covered by Finance Regulation

3.2 Before the Clerk exercises the delegated powers granted above, those members consulted shall consider whether the matter is of sufficient interest to justify the summoning of a special meeting of the Council or of the appropriate Committee. Where a meeting is so summoned, the Committee concerned shall have delegated power to act on behalf of the Council. Decisions may be taken in a physical meeting or a virtual meeting where the law permits

3.3 Before exercising the delegated power granted by paragraphs 3.1/3.2 above, the Committee concerned shall consider whether the matter is of sufficient import to justify recommending to the Chair of the Council that a Special Meeting of the Council should be called

### **4. Standing Committees**

The following Committees shall be standing committees of the Council and shall consist of such members as the Council shall from time to time determine:

- a) Planning and Highways Committee
- b) Finance & General Purposes Committee

The functions of these committees shall be determined by their Terms of Reference.

#### **4.1 Planning and Highways Committee (6 members - Quorum 3 )**

4.1.1 The Planning Committee shall be delegated to make decisions on behalf of the Council in the following matters: Decisions may be taken in a physical meeting or a virtual meeting where the law permits

- Approval of its Minutes as true and correct records
- Receive DPI dispensations; details of all dispensations received to be reported back to the Council, at the next available meeting.
- Approval of expenditure on items included in any devolved Committee budget up to the amount specified in the budget
- To comment on planning applications received from the planning authority
- Street naming, depending on deadlines
- Licensing matters
- Any other matter which may be delegated to it by the Council from time to time
- To comment on behalf of the Council on Local Development Framework plans, Structure

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Plans, Mineral Plans, Waste Plans, Regional Plans and any other plans or studies as considered appropriate

- To comment on behalf of the Council in response to any consultations in relation to highways matters including off and on-street parking, footpath diversions, modifications or adoptions depending on deadlines.

4.1.2 The Committee may make recommendations on any matter which may be delegated to it by the Council from time to time

4.1.3 The Committee may refer specific matters to the Council for a final decision if it so wishes.

4.1.4 The Committee may appoint sub committees if necessary and will define the purpose of the sub committees (see 7 below)

## **4.2 Finance & General Purposes Committee (5 members - Quorum 3)**

4.2.1 The Finance & General Purposes Committee shall be delegated to make decisions on behalf of the Council in the following matters: Decisions may be taken in a physical meeting or a virtual meeting where the law permits

- Approval of its minutes as true and correct records
- Receive DPI dispensations; details of all dispensations received to be reported back to the Council, at the next available meeting.
- Approval of expenditure on items included in any devolved Committee budget up to the amount specified in the budget
- Monitoring all the Council's financial matters
  - To agree the Council's banking arrangements
- Formulating and monitoring policies on financial risk management and internal controls
- Approve transfers of budgets
- Agree the level of general and earmarked reserves held by the Council
- Allocation of grants and donations WITHIN the allocated budget
- Administration and maintenance of any current or future land or property owned by the Council
- Health and Safety other than staffing/workplace issues
- Receive records of any expenditure incurred by the Clerk/RFO under emergency measures as defined in 2.6 above
- To deal with consultation which time prevents being presented to Full Council (except those falling under the Planning Committee's remit)
- Any other matter referred to the Finance & General Purposes Committee by the Full Council

4.2.2 The Committee may consider and make recommendations to the Full Council on the following matters

1. Issuing a precept
2. Borrowing money
3. Matters of policy or new issues of importance to the whole area
4. Working party requests for expenditure BEYOND any agreed budget allocation
5. The devolution of the Council's budget to individual committees

4.2.3 The Committee may refer specific matters to the Council for a final decision if it so wishes.

4.2.4 The Committee may appoint sub committees if necessary and will define the purpose of the sub committees (See 7 below)

### **The Allotment Committee (5 Members Quorum 3)**

4.3.1 The Allotment Committee of Swan Community Council will operate in accordance with the Standing Orders, Financial Regulations, Policies and Codes of Practice adopted by SWAN Community Council

#### 4.3.2 Constitution

Members of the Committee 5 Members - Quorum 3

The Committee will consist of up to 5 Councillors including at least one member of the Finance and General Purposes Committee with the addition of the designated site representative of Ashford Allotment Society

The Community Council Clerk will attend meetings

The Committee may invite external advisors, stakeholders and National Allotment Society Representatives subject to agenda items

#### Quorum

The Quorum will be 3 members of the Committee

Only Council Members of the Committee will have voting rights.

#### 4.3.3 Purpose of the Committee

The Allotments Committee will oversee the operation and management of all aspects of the Council Allotments including general management, maintenance and administration.

#### 4.3.4 The Committee will have the following delegated responsibilities

- i. Liaise with the Allotments Representatives and Allotment holders to maintain and improve the allotments.
- ii. Liaise with the Environmental Champion to consider Environmental Policies to improve and encourage the Wildlife and Environment in and around Gas House Fields
- iii. Adjudicate any complaint or dispute in relation to the allotments and or plot holders.
- iv. Review annually the terms of the Allotment Agreement and recommend any changes to the Finance, Terms and Conditions, Tenancy Agreement, Waiting Lists and Inspections for consideration by the Council.
- v. Review annually the allotment fees and charges and recommend any changes to these for consideration by the Finance and General Purposes Committee
- vi. Maintain a schedule of all the plot holders and any vacant plots.
- vii. Maintain a waiting list of potential plot holders in accordance with the Allotment Allocations Policy.
- viii. Undertake or oversee a regular inspection of allotment plots, correspond with tenants, terminate tenancies and appoint new tenants

#### 4.3.5 Reporting

Draft minutes of the Committee's meetings will be presented to the next appropriate Full Council Meeting for noting/approval

The Committee may make recommendations on any matter which may be delegated to it by the Council from time to time

The Committee may refer specific matters to the Council for a final decision if it so wishes.

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The Committee may appoint sub committees if necessary and will define the purpose of the sub committees

Subject to Council approval the Committee may delegate routine procedural matters, correspondence not requiring a Committee decision, inspections and control to the Allotments Officer.

## **5) Ad Hoc Committees**

The following Committee (s) shall be ad-hoc committees of the Council and shall consist of such members as the Council shall from time to time determine:

### **5.1 Staffing Committee (4 members - inc Chair and Vice Chair of the Council - Quorum 3)**

5.1.1 The committee has delegated powers to make decisions on behalf of the Council about all staffing issues not delegated to the Proper Officer. Decisions may be taken in a physical meeting or a virtual meeting where the law permits

- To consider any staff grievances in line with adopted policy
- To carry out disciplinary hearings in line with adopted policy, only reporting to Council when the time for any appeal has passed
- To keep under review staff working conditions and health & safety matters
- To manage long term sickness, incidents at work and return to work programmes
- To review the Council's staffing arrangements and recommend appropriate changes to the Council
- To carry out the Proper Officer's annual appraisal

5.1.2 In the absence of the Proper Officer, all staffing issues will be the responsibility of the Staffing Committee including staff welfare and the appointment of temporary staff for the post of Proper Officer and/or RFO as necessary.

5.1.3 Policy on the following matters is reserved to the Council for decision, but the Staffing Committee may also make policy recommendations relating to:

- Conditions of Service
- Staffing levels.

5.1.4 The Committee may refer specific matters to the Council for a final decision if it so wishes.

5.1.5 The Committee shall be governed by its full Terms of Reference.

## **6) Appeals Committee (Recommended 3 members - quorum 3)**

6.1 The Appeals Committee is delegated to make decisions on the behalf of the Council in the following matters: Decisions may be taken in a physical meeting or a virtual meeting where the law permits

- Appeals against decisions made by the Staffing Committee in grievance, disciplinary and capability matters
- Dealing with appeals to a final conclusion, only reporting to Council the actions it has taken at the end of the process.

6.2 The Committee may refer specific matters to the Council for a final decision if it so wishes.

6.3 The Committee shall be governed by its full Terms of Reference

## **7) Sub Committees**

7.1 Committees may appoint a sub-committee if it believes it would be expedient to do so under the Council's Standing Orders. Any powers delegated to a sub-committee shall be detailed at the time the sub-committee is formed by means of a minute detailing the sub-committee's terms of reference, but such delegated powers must be agreed by the Council.

## **8) Working groups**

8.1 Working groups may be formed by resolution of the Council at any time. The work of such a Working Group shall be formed by means of a Minute detailing the Working Group's terms of reference.

8.2 Where working groups are established, they will be convened by their lead member and maintain their own notes which shall be reported in full to the Council. They are advisory bodies only with no delegated decision-making powers. Officer(s) will attend by invitation only as ad hoc advisor(s). Proceedings may be involving a physical meeting or a virtual meeting where the law permits

## **7) Delegation - Limitations**

7.1 Committees and sub-committees shall, at all times, act in accordance with the Council's Standing Orders, Financial Regulations, the committee's Terms of Reference, this Scheme of Delegation and, where applicable, any other rules, regulations, schemes, statutes, bye-laws or orders made and with any directions given by the Council from time to time.

## **8) Delegation in extreme circumstances**

8.1 This Scheme of Delegation may be supplanted, with the Council's agreement in cases of urgency or emergency where, for reasons beyond its control, Council and Committee meetings cannot take place for the following reasons

- a. Where the Government advises or legislates against meetings being held
- b. Where meetings would be inquorate due to enforced councilor absence.

Appendix A to this scheme will apply in those exceptional circumstances only

## **APPENDIX A**

### **Delegation in Extreme Circumstances**

The Clerk is authorized to act on behalf of the Council and its Standing Committees in cases of urgency or emergency where meetings cannot take place for the reasons defined in 8.1

Any such action is to be reported to the first available meeting of the Council or relevant Committee. The Chair and the Chair of any relevant committee or, if either or both are unavailable, up to two individual members of the Council are to be consulted before such action is taken.

The scheme will be reviewed on a regular basis as required by the Council and when a new Clerk is appointed.

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In extreme circumstances, the following powers and duties will be delegated to the Clerk/  
Responsible Financial officer

## **1 Extent of Delegation**

1.1 All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.

1.2 The Clerk will exercise these powers in accordance with

- approved budgets
- the Council's Financial Regulations
- the Council's Contract Procedure Rules
- the Council's Procurement Strategy
- other adopted policies of the Council, all statutory common law and contractual requirements

1.3 The Clerk may do anything pursuant to the delegated power or duty which it would be lawful for the Council to do including anything reasonably implied or incidental to that power or duty.

## **2 General Matters**

The Clerk is authorised:

2.1 To sign, or where appropriate, have sealed on behalf of the Council, any Orders, Deeds or Documents necessary to give effect to any of the matters contained in reports or in any resolution passed by the Council

2.2 To take any proceedings or other steps as may be necessary to enforce and recover any debt owing or other obligation due to the Council.

2.3 To institute and appear in any legal proceedings authorised by the Council.

2.4 To appear or make representation to any tribunal or public inquiry into any matter in which the Council has an interest (in its own right or on behalf of the South Willesborough and Newtown Community).

2.5 To decide arrangements for the closure of the Council offices in consultation with the Chair of the Council.

2.6 To negotiate and enter into contractual arrangements for artistes and promoters in relation to events or campaigns held in South Willesborough and Newtown where organised by the Community Council.

2.7 To act as the Council's designated officer for the purposes of the Freedom of Information Act 2000.

2.8 To apply for planning consent for all development by the Council, following council decisions.

2.9 Under the Regulation of Investigatory Powers Act 2000 to authorise directed surveillance or the use of a human intelligence source.

2.10 To respond to complaints and to make such ex gratia payments in settlement of such complaints as are considered justified and agreed by Council.



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2.11 To manage, monitor and review the Councils Internal control procedures.

## **3 Financial Matters**

The following is delegated to the Responsible Financial Officer

3.1 To undertake all matters approved by Council in the delegation scheme dated 5<sup>th</sup> August 2019 (approved Minute 48/19)

3.2 To operate the Council's banking arrangements

3.3 To incur expenditure up to a maximum of £5,000 on any item for which provision is made in the revenue budget provided that any action taken complies with any legislative provisions and the requirements of the Council's Financial Regulations and Procurement Policy. Expenditure in the range £1500 - £5000 to be incurred in consultation with the Chair of Finance and General Purposes Committee /Chair of Council.

3.4 To pay all accounts properly incurred.

3.5 To pay all subscriptions to organisations to which the Council belongs.

3.6 To make all necessary arrangements for the provision of an internal and external audit service for the Council.

3.7 To negotiate settlements in connection with claims made by and against the council in consultation with the Council's insurers where appropriate.

3.8 To incur expenditure on revenue items within approved estimates and budgets

3.9 To enter into leasing and contract hire agreements for the acquisition of vehicles machinery and equipment on such terms as are considered appropriate and approved by Council.

3.10 To accept quotations or tenders for work, supplies or services (where tenders are required by the Council's Financial Regulations), subject to:  
a) the cost not exceeding the amount approved estimate  
b) the tender being the lowest price or the most economically advantageous to the Council according to the criteria set out in the tender documentation  
c) all the requirements of the Council's Financial Regulations being complied with.

3.11 To carry out transfer of sums between cost centres in accordance with the Council's Financial Regulations.

3.12 To authorise action for the recovery of debts.

3.13 To maintain a Register of Assets and Inventory of Equipment.

3.14 To determine the Parish Council's insurance requirements.

3.15 To make all necessary arrangements for the Council's insurances.

3.16 Any other matters delegated to the Finance and General Purposes Committee in the delegation scheme dated 5<sup>th</sup> August 2019 (approved Minute 48/19) in consultation with the Chair of the Committee/ Chair of Council

## **4 Property Matters**

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4.1 Enter discussions regarding the terms of any lease, license, conveyance or transfer in consultation with the Council's legal advisors.

4.2 To serve requests for information as to ownership occupation and other interests in land for the purposes of any function under their control.

## **5. Planning Matters**

5.1 Any matters delegated to the Planning and Highways Committee in the delegation scheme dated 5<sup>th</sup> August 2019 (approved Minute 48/19) in consultation with the Chair of the Committee/ Chair of Council

## **6. Health and Safety at Work Act 1974**

To oversee the discharge of the Council's responsibilities under the Act.

## **10 Legal Matters**

10.1 To take and discontinue legal proceedings in any Court or at any Tribunal as approved by Council recommendation

10.2 To take Counsel's advice or instruct Counsel to represent the Council

10.3 To seek injunctions and commence proceedings for the purposes of enforcement in accordance with the Council's policies

- recovering money due to the Council
- appealing against a decision affecting the interests of the Council
- responding to appeals against action taken by the Council

10.4 To represent the Council at Court or any Tribunal or to make arrangements for appropriate representation.

10.5 To negotiate and settle the terms of documents to give effect to a decision of the Council or any of the committees acting under delegated powers.

10.6 To be the Responsible Officer for the co-ordination and operation of the legal requirements under the Data Protection Act, General Data Protection Regulations, the Freedom of Information Act and any Equality legislation

10.7 To prepare the final accounts and year end accounting statements

Written by  
Rob Woods  
Clerk to the Council  
July 2019

Adopted by Council  
5<sup>th</sup> August 2019  
Minute 48/19

Reviewed June 2020  
Minute 76/20

Reviewed January 2021

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Minute 162/20/11

Next Review – June 2021 or as required