

## Constitution part 3F - Delegation by full council

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- 1 Chief executive and head of paid service
  - 1.1 The following delegated powers are subject to the chief executive vesting authority to other appropriate officers
  - 1.2 Within the overall resources allocated by the Council and in direct support of the Council's objectives and subject to the exclusions referred to in paragraph 1.5 below authority to act on behalf of the Council on all matters including those which have been delegated to any other officer.
  - 1.3 To make appointments to the posts of chief officers in accordance with requirements of the Officer Employment Procedures Rules (Part 4H).
  - 1.4 To appoint members and other Council representatives to Council committees, sub-committees and other bodies and on outside organisations in accordance with the allocation of seats to the party groups and on the nomination of the whip of the party group concerned.
  - 1.5 The following matters are excluded from this scheme of delegation:
    - (a) Any matter that the Council or the Cabinet has resolved shall be determined by itself.
    - (b) Any matter that is a new policy or is a departure from the existing agreed Policy Framework of the Council unless otherwise provided for in the Constitution.
    - (c) Any matter that the Chief Executive considers inappropriate to be dealt with under delegated powers.
    - (d) Any matter in which the Chief Executive has declared an interest.
    - (e) Any issue which is required by law to be considered by the Council, the Cabinet or by a Committee.
    - (f) Any matter which has been delegated to a Committee of the Council, or of the Cabinet to determine.
  - 1.6 This section must be read in conjunction with Sections D,E and F of the Part 3 F.

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- 2 Chief finance officer
  - 2.1 Except for matters reserved for the decision of Members or other decision-makers the Director of Corporate Services is authorised by the Council to exercise the Council's functions in relation to the following decisions. Such decisions must be in accordance with overall strategic policies set by the Council and must in all cases be made within approved budgetary provision.
  - 2.2 To implement the Council's Treasury Management Strategy and to act on behalf of the Council in banking transactions including borrowing, investment, mortgage loans, mortgage deeds, and London Borough of Merton Bonds.
  - 2.3 To act on behalf of the Council in insurance arrangements and transactions.
  - 2.4 To act on behalf of the Council in leasing arrangements and transactions, and to approve new leasing transactions subject to the costs being funded from within the existing revenue budget.
  - 2.5 To publish and implement financial procedures in support of financial regulations approved by the Council (Section 151 responsibility).
  - 2.6 To deal with all administrative and miscellaneous legislative matters relating to Housing Benefit overpayment recovery, Debt Collection, Accounts Payable and General Income.
  - 2.7 To decide upon methods of capital financing.
  - 2.8 To approve immediate expenditure up to a limit of £100,000 in cases of major unforeseen emergencies where no budgetary provision exists subject to a report being made to the Cabinet as soon as practicable.
  - 2.9 To write off irrecoverable debts and charges due to the Council.
  - 2.10 To grant superannuation benefits and gratuities.
  - 2.11 To issue Certificates pursuant to Regulation 23 of the Local Government (Pension Scheme) Regulations 1997 (as amended).
  - 2.12 To augment benefits in relation to protection of existing Pension Scheme Members' rights.
  - 2.13 To determine policy guidelines for Superannuation Fund Investment on the basis of advice obtained from the Council's professional investment advisors and the Authority's Superannuation Fund Advisory Committee.
  - 2.14 Approval of admitted bodies to the Superannuation Fund.
  - 2.15 Determine Superannuation Fund contribution rates where in accordance with actuarial advice.
  - 2.16 To approve the commencement of a Capital Scheme in consultation with the appropriate Chief Officer of less than £50,000.
  - 2.17 To agree the release and/or the reduction of any Bond and to authorise the service of the notice of release/and reduction.

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- 2.18 To deal with all administrative and legislative matters relating to Council Tax, Housing Benefits, Business Rates, approval of discretionary charitable relief for voluntary organisations and hardship relief for Business Rate Payers in accordance with the Council's existing policy.
- 2.19 This delegation is in addition to the functions set out in Article 12.

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### 3 Chief legal officer

3.1 The following matters are delegated to the Assistant Director of Corporate Governance for decision. Such decisions must be in accordance with the overall strategic policies set by the Council, and must in all cases be made within approved budgetary provision.

- (a) To authorise, issue, prosecute and defend any legal proceedings (including appeals and enforcement) on behalf of the Council in consultation with the Chief Executive or the appropriate officer in circumstances where the proceedings are incidental or ancillary to any power contained within the Scheme of Delegation to Officers.
- (b) To arrange for any legal proceedings to be conducted by any solicitor or barrister employed within the Corporate Governance Division including appearances before any court or tribunal in which the officer has rights of audience.
- (c) To authorise in consultation with the Head of Paid Service the payment of any award of damages, compensation and costs made by any court or tribunal against the Council.
- (d) To settle or compromise any legal proceedings on behalf of the Council in consultation with the appropriate Chief Officer including the agreement and payment or receipt of damages excluding legal costs.
- (e) To give undertakings to any court or tribunal on behalf of the Council and to give solicitor's undertakings where appropriate and within the rules and guidance issued by the Law Society.
- (f) To instruct counsel, solicitors expert witnesses or cost assessors to act on behalf of the Council.
- (g) To issue and serve any legal notice or document necessary or ancillary or incidental to the giving effect of any decision taken by Council, Cabinet, any Committee or Sub-committee or any officer under the Scheme of Delegation to Officers.
- (h) To nominate Authorise Officers to determine Regulatory and Investigatory Powers Act requests.
- (i) Unless there is an express statutory requirement on a named official or category of officials, any document which the Council is required or authorised by or under any enactment to be given made or issued by the Council in any capacity may be signed on behalf of the Council by the "Authorised Officer". The "Authorised Officer" is the Assistant Director of Corporate Governance or any officer authorised by the Assistant Director of Corporate Governance.
- (j) To make proper arrangements with respect to any documents that belong to or are in the custody of the Council or any of the council officers and workers.

3.2 These matters are in addition to the delegations and authorisations set out in Articles 12 and 14 of the Constitution. This Section must be read in conjunction with Section D,E and F of part 3F.

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- 4 Authorisations to chief officers
  - 4.1 Authorised officers of the local education authority for the purpose of requiring the parent of any pupil in attendance at any school, college or educational establishment maintained by them, to submit the child or pupil for examination in accordance with the statutory duties of the authority under Section 34 of the Education Act, 1944.
    - Director of Children Schools and Families
  - 4.2 To authorise and institute proceedings in cases relating to the enforcement of the Byelaws regulating the employment of children and street trading pursuant to Section 223 of the Local Government Act 1972.
    - Director of Children Schools and Families
  - 4.3 To authorise and institute proceedings under Section 223 of the Local Government Act, 1972 before Courts of Summary Jurisdiction in respect of cases relating to Education Welfare.
    - Director of Children Schools and Families
  - 4.4 To authorise and institute and/or defend any legal proceedings on behalf of the Council (Sections 222 and 223 Local Government Act 1972) and to arrange for such proceedings to be conducted by any officer employed by the Council.
    - Assistant Director of Corporate Governance
  - 4.5 To authorise and make applications for Orders under the National Assistance Act, 1948 (as amended by the National Assistance (Amendment Act, 1951) for urgent removal of persons in need of care and attention to suitable premises.
    - Director of Community and Housing Services
  - 4.6 Pursuant to Section 223 of the Local Government Act 1972 to appear on behalf of the Council in legal proceedings.
    - All Solicitors and Barristers in the Corporate Governance Division (and other legal staff on authority of the Assistant Director of Corporate Governance)

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- 4.7 To authorise legal proceedings for arrears of Council Tax, etc and appeals against assessments in the Valuation Tribunals.
- Director of Corporate Services
- 4.8 Authority to appear on behalf of the Council before any Court of Summary Jurisdiction in any proceedings instituted by the Director of Corporate Services in respect of the recovery of local taxation, general income debts, business rates, failure to give statutory information concerning on and off street parking, and Housing Advances.
- Such Officers of the Corporate Services Department as may be specifically so authorised in writing by the Assistant Director of Corporate Governance
- 4.9 To act in Valuation Tribunals in registration matters, penalty appeals and local taxation matters.
- Such Officers of the Corporate Services Department as may be specifically so authorised in writing by the Assistant Director of Corporate Governance.
- 4.10 To authorise legal proceedings on behalf of the Council, in respect of the functions of the Council as a Children's Services Authority.
- Director of Children Schools and Families where requisite in consultation with the Assistant Director of Corporate Governance.
- 4.11 Authority to take appropriate action when a tree on private land is considered to be a danger to the public, and serve a notice under Section 23 of the Local Government (Miscellaneous Provision) Act, 1976 and to recover any costs incurred.
- Director of Environmental & Regeneration
- 4.12 To issue proceedings for the recovery of Council dwellings and land held for Council purposes and for arrears of rent and service charges.
- Director of Community and Housing Services

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### 5 Proper officers

#### 5.1 Pursuant to Local Government Act 1972, Section 270(3) and authorised pursuant to Section 234

- (a) In relation to 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 the 26 October 1972, to the Clerk of a Council or the Town Clerk of a Borough, and for the provisions contained in the following sections and schedules of the Local Government Act 1972 as and from the date they came into force: Sections 83(1),83(2), 84, 88(2),89(1), 96(1) and (2), 173(5),225(1), 229(5), 234(1) and 238, Schedule 2 part II, para.12(4),
  - Chief Executive
- (b) Schedule 12 Part 1, para 4(2)(b) and para 4(3), Schedule 14 part II, para 25(7) and Schedule 22 para 17.
  - Chief Executive
- (c) Representation of the People Act 1983. Sections 8(2)(a) and 35(3)
  - Chief Executive
- (d) Sections 115(2) and 151 Local Government Act 1972
  - Director of Corporate Services
- (e) Local Government Act 1988 paragraph 1 Schedule 4A (Issue of Completion Notices) as amended
  - Director of Corporate Services
- (f) Allotments - Notices to Quit and agreements.
  - Director of Community and Housing Services
- (g) Exclusive rights of burial (including exhumations and Certificates of Disposal transfers and assignments).
  - Director of Community and Housing Services
- (h) Notices to Quit (Council dwellings)
  - Director of Community and Housing Services
- (i) Notices of numbering of streets and buildings.
  - Director of Environment & Regeneration
- (j) Skips on highways - licences and notices requiring removal.
  - Director of Environment & Regeneration
- (k) Receipt of notice under the Local Government (Committees and Political Groups) Regulations 1990 (as amended)
  - Chief Executive



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- (l) Inspection of Weights and Measures
  - Commercial and Trading Standards Manager (Chief Inspector of Weights and Measures)

### 5.2 Pursuant to the Local Government (Access to Information) Act 1985:-

- (a) To decide which reports should be excluded from circulation before a meeting on the basis that the public are likely to be excluded during consideration of them.
  - Assistant Director of Corporate Governance
- (b) To decide which documents, other than reports, being supplied to Members of the Council in connection with an item on an agenda should also be supplied to newspapers.
  - Assistant Director of Corporate Governance
- (c) To make a written summary of the proceedings at a meeting where members of the public were excluded so as to provide them with a reasonably fair and coherent record of those proceedings.
  - Assistant Director of Corporate Governance
- (d) To compile a list of background papers for a report.
  - CO in whose department the report is prepared.
- (e) To decide which papers are to be background papers for a report.
  - CO in whose department the report is prepared.
- (f) To decide whether a document discloses certain types of "exempt" information.
  - Assistant Director of Corporate Governance
- (g) Receipt and registration of Members' interests, ~~in accordance with the Local Authorities (Members' Interests) Regulations 1992 (and allied Register of Officers' interests)~~
  - Assistant Director of Corporate Governance
- (h) Maintenance of statutory list of politically restricted posts
  - Head of Human Resources
- (i) Registration of Births, Deaths and Marriages
  - Director of Corporate Services

### 5.3 Scrutiny Officer (Local Government Act 2000 s21ZA(Local Democracy, Economic Development and Construction Act 2009 s31))

### 5.4 The manager with designated responsibility for the scrutiny function as nominated by the Head of Paid Service.

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- 6 Statutory officers
  - 6.1 Head of Paid Service
    - S.4 Local Government and Housing Act 1989
    - Chief Executive
  - 6.2 Monitoring Officer
    - S.5 Local Government and Housing Act 1989
    - Assistant Director of Corporate Governance
  - 6.3 Chief Finance Officer
    - S.6 Local Government and Housing Act 1989
    - Director of Corporate Services

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### 7 Planning applications committee

#### 7.1 TOWN PLANNING DEVELOPMENT CONTROL AND MISCELLANEOUS MATTERS

7.2 Except for matters reserved to this Committee or for the decision of members or other decision makers, all matters relating to the exercise of this Committees functions are delegated to the Chief Executive & Head of paid service. These powers are to be exercised within the overall resources allocated by the Council, AND in accordance with Council policies and objectives. Accordingly the Chief Executive is authorised to determine all planning applications, Listed Building Consent applications and Conservation Area Consent applications except the following which are reserved to Committee: -

- (a) (where a written request is received from a Council Member that a particular application/applications should be determined by Committee;
- (b) where objections have been received which cannot be overcome by conditions but where the application is considered to be in accordance with the Development Plan and so recommended for approval ( minor developments or changes of use may be excluded from this exception);
- (c) where the proposals are significantly contrary to Development Plan Policy , unless recommended for refusal.
- (d) proposals which are subject to Section 106 agreement and applications for release or significant modification/variation from such obligations
- (e) where conflict arises between the Officer's recommendation and the advice issued by English Heritage or other body with similar statutory status;
- (f) determinations in cases where an appeal has been lodged against non-determination which involves a Public Inquiry or Informal Hearing;
- (g) revocation/modification of planning permission and discontinuance order
- (h) where the Council may be involved in compensation or service of a purchase notice(except in relation to stop notices);
- (i) where proposals accord with the Development Plan but are recommended for refusal;
- (j) where the proposal involves the Council either as applicant or landowner and the scheme is not of a minor nature;
- (k) where enforcement action will follow on from a refusal of planning permission;
- (l) where an Environmental Impact Assessment has been provided or requested;

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- (m) where the applicant is a councillor or Council officer
- (n) Where officers consider that the application should be determined by committee
- (o) Major hazardous substances

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### 8 Licensing committee

#### 8.1 To licensing sub-committees

- (a) To exercise all of the powers in the Licensing Act 2003 (Hearings) Regulations 2005 (Statutory Instrument 2005 No 44) which may be exercised during the course of a hearing held to determine those applications, notices and representations details in S10(4)(a,b,c & d) and Paragraphs 4 (3)(a), 16(3)(a) and 26(3)(a) of Schedule 8 (transitional provisions) of the Licensing Act 2003 and for which provisions has not been otherwise made by the Licensing Committee.
- (b) To make applications or representation to the relevant licensing authority when Merton is a responsible authority as defined in S13(4)(g) or S69(4)(g) of the Licensing Act 2003.
- (c) The following powers be deglegated to licensing sub-committees where they are in session:
- (d) Dispensing with a hearing of all parties agree that a hearing is unnecessary – regulation 9(1)
- (e) Extending time limits – regulation 11(1)
- (f) Adjourning the hearing – regulation 12(1)(a) and regulation 20
- (g) Arranging for the hearing to be held on specified additional date(s) – regulation 12(1)(b)
- (h) Excluding the pullback from all or part of the meeting – regulation 14(2)
- (i) Questioning any party to the hearing – regulation 17
- (j) Consideration of representations or notices – regulation 18
- (k) Determining the relevance of information – regulation 19
- (l) Decision to hear in the absence of a party or parties – regulation 20
- (m) Procedure and conduct of hearing – regulations 21(where the procedure agreed by Licensing Committee is silent), 22,23,24 and 25
- (n) Determination of applications – regulations 26 and 27
- (o) Rectification of irregularity – regulations 32 and 33
- (p) Any other power granted to the Authority under the Act, and any Guidance or regulations issued by the Secretary of State which may be exercised during the course of a hearing held to determine those applications, notices and representations detailed in S10(4)(a,b,c, & d) and Paragraphs 4(3)(a), 16(3)(a) and 26(3)(a) of Schedule 8 (transitional provisions) of the Licensing Act 2003 and for which provision has not been otherwise made by the Licensing Committee

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### 8.2 To Head of Planning and Public Protection

- (a) Decision on whether an application, notice or representation received by the authority is valid, relevant, frivolous or vexatious in terms of the requirements of the Licensing Act 2003 and any guidance or regulations issued by the Secretary of State
- (b) Determination of licence applies made under the licensing Act 2003 that do not require a hearing to be held.

### 8.3 To Assistant Director of Corporate Governance

### 8.4 Issue of notice of hearing

- (a) Dispensing with hearing (if all parties agree to do so prior to the hearing)
- (b) Extension of time limits where the need to do is apparent prior to a hearing – in consultation with the Chair of the Licensing Committee
- (c) Rectifying irregularities identified while the Committee or a sub committee is not in session