

## TABLE 4<sup>1</sup>

### FUNCTIONS DELEGATED TO OFFICERS

#### INTRODUCTION

This scheme sets out the functions of the Council and the Cabinet which are delegated to Officers. Such delegated powers must be exercised in accordance with the conditions specified in paragraphs 1-3 below. The scheme must be read in conjunction with the Financial Rules and Scheme of Financial Delegation.

1. This scheme does not delegate to Officers:
  - a. Any matter reserved to full Council
  - b. Any matter which by law may not be delegated to an Officer.
2. Delegated powers must be exercised in accordance with the law, the rules, procedures, codes and protocols contained in the Council's Constitution and Council policy.
3. To the extent that it is permitted by law Officers have the power to authorise all or any of their delegated functions to other Officers either fully or under their general supervision and control. Such authorisation should be recorded in writing and a copy provided to the Monitoring Officer setting out:
  1. the name(s) of the officers who may exercise the power;
  2. the power that may be exercised;
  3. any limitations on the exercise of the power.

#### CHIEF EXECUTIVE<sup>2</sup>

1. To act as Head of Paid Service under and for the purposes of section 4 of the Local Government and Housing Act 1989
2. To determine the terms and conditions of service of the Deputy Chief Executive, Chief Officers and Directors.
3. To be the Returning Officer and to appoint Deputy Returning Officers for elections to the District Council and Parish Councils within the District.<sup>3</sup>
- 3A To be the Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.<sup>4</sup>

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<sup>1</sup> Amended version approved 25<sup>th</sup> September 2008

<sup>2</sup> Amendment approved 11<sup>th</sup> May 2017

<sup>3</sup> Amendment approved 29<sup>th</sup> July 2010

<sup>4</sup> Amendment approved 26<sup>th</sup> July 2012

4. To undertake the functions of the Council in relation to elections.
5. To have delegated authority to affect immediate changes to membership of committees at the request of political groups within the allocations set at Council<sup>5</sup>, such changes to be reported to Council at its next meeting for ratification.
6. In cases of urgency to have a general power, after consultation with the member holding the appropriate portfolio in Cabinet, or the Chairman of the relevant committee as the case may be, to deal with any matter not delegated to any other officer by statute or other legislation on which the Chief Executive considers to require a decision before the next meeting of the appropriate body within the Council.<sup>6</sup>

#### **CHIEF FINANCE OFFICER**

7. To act as Chief Financial Officer under s114 of the Local Government Finance Act 1988 and s151 of the Local Government Act 1972
8. To be responsible for, and do anything required for the proper administration of the financial affairs of the Council
9. To invest the funds of the Council in line with the approved Treasury Management Strategy.<sup>7</sup>
10. To make arrangements for the internal audit of the Council
11. To carry out street numbering and naming

#### **In relation to Council Tax, Non-Domestic Rates, Community Charge, Housing Advances, Benefit Overpayment, Sundry Debtors and Miscellaneous Income, Housing and Council Tax Benefit**

12. To collect and recover Council Tax including determining the liability for the tax, benefits and discounts available. To enter into agreements regarding payment, to make any necessary adjustments to charges, to impose penalties, to request information and institute legal proceedings in the case of non-disclosure of information.
13. To administer the Housing Benefit and Council Tax Benefit scheme on behalf of the Council and to determine whether benefit payments should be made to a landlord.
14. To determine and administer applications under the Discretionary Housing Payment Scheme.

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<sup>5</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>6</sup> Amendment approved 17<sup>th</sup> May 2018

<sup>7</sup> Amendment approved 13<sup>th</sup> May 2010.

15. To authorise the prosecution for fraudulent claims for Housing and Council Tax Benefit and issue formal cautions and administrative penalties.
16. To appoint and authorised officers with powers to enter on to land and premises to secure the payment of sums due to the Council.
17. To recover debts due to the Council by civil action.
18. To institute, appear or authorise appropriate officers to appear on behalf of the Council in civil or criminal proceedings.
19. To write down debts in cases of bankruptcy/liquidation and to write off debts that are irrecoverable or uneconomic to recover up to the figures contained in the Financial Rules and Scheme of Financial Delegation in consultation with the Finance Portfolio Holder.<sup>8</sup>
20. To appoint Bailiffs or refer debts to bailiff or debt collection agencies.
21. To determine whether benefit overpayments are recoverable.
22. To authorise Government returns and subsidy claims.
23. To enter into joint working arrangements with external agencies.
24. To attend Valuation Tribunal hearings or to nominate an appropriate officer to present the Council's case.
25. To determine concurrent functions grants.
26. To approve fees and charges unless part of the annual budget setting in consultation with the appropriate Corporate Director and Finance Portfolio Holder.<sup>9</sup>
27. [Deleted]<sup>10</sup>

**In relation to Non-Domestic Rates.**

28. To conduct the annual review of the Rural Settlement List.
29. To determine claims for relief

**In relation to the billing, collection, recovery of the other income**

30. To action changes of interest rates on housing advances.

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<sup>8</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>9</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>10</sup> Amendment approved 13<sup>th</sup> May 2010.

31. To institute possession proceedings in the County Court for the recovery of housing advance arrears.
32. To appoint debt recovery agents.

### **In relation to the administration of Housing and Council Tax Benefits**

33. To determine claims, conduct reviews, administer discretionary housing payments, review decisions, issue formal cautions in administrative, initiate prosecutions and respond to appeals. To appear at Appeal Tribunal Hearings, to serve any relevant notices. To issue requests for rent or such determination and re-determinations.
34. To appoint authorised officers with powers to enter business premises, make enquiries and interview persons.
35. To determine whether benefit overpayments are recoverable and, if so, from whom.
36. To determine if benefit payments should be made to landlords.
37. To authorise Government returns and subsidy claims.
38. To agree Service Level Agreements with benefit agency, rent officer and other external agencies.
39. To appoint and train officers to verify documents comply with the document verification framework and to represent the Council at liaison meetings and to enter into joint working arrangements with the benefit agency.
40. To determine concurrent functions grants.
41. To make any financial transaction including the borrowing and lending of money in line with the member approved Treasury Management Strategy.<sup>11</sup>
42. To determine applications by staff for car loans under the Assisted Car Purchase Scheme.
43. To effect adequate insurance cover for the Council.
44. To authorise payments to employees for loss or damage to personal property up to a maximum of £500 for any one claim

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<sup>11</sup> Amendment approved 13<sup>th</sup> May 2010.

## MONITORING OFFICER

45. To act as Monitoring Officer pursuant to s5 of the Local Government and Housing Act 1989
46. To act as the principle point of contact for the Conduct Committee and to undertake case management and investigations on behalf of the Conduct Committee in respect of Members of the District Council and Towns and Parish Councils.<sup>12</sup>
- 47A. To be the Proper Officer for the receipt of written requests for Dispensations within the meaning of section 33(1) of the Localism Act in respect of Disclosable Pecuniary Interests.<sup>13</sup>
- 47B. To consider and grant requests for Dispensations from section 31 of the Localism Act 2011 in accordance with paragraph 1.3.2 of Article 9.<sup>14</sup>
47. To amend the Constitution in any way whatsoever in order to secure compliance with the law and the convenient, effective discharge of any Council function provided that such amendment is reported to and ratified at the following meeting of the Council (in respect of any non-executive function) or the Cabinet in respect of any executive function. Decisions made or action taken in relation to amendments, which are not subsequently ratified, by the Council or Cabinet remain lawful.
- 48A. To amend the Constitution to ensure individual names, positions and job titles are updated to reflect changes in the composition of Cabinet, Committees, and Officers. Such changes to be notified to all members.<sup>15</sup>
48. To add any legislation to the list in Appendix A at any time provided that such amendment is reported to the following Annual meeting of the Council.
49. To sign and serve any notice, order or document or act as proper officer under s234 of the Local Government Act 1972 where no other officer is currently appointed, and any notice in respect of any land owned by or in the process of being acquired by the Council
50. To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme.<sup>16</sup>

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<sup>12</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>13</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>14</sup> Amendment approved 18<sup>th</sup> September 2019

<sup>15</sup> Amendment approved 19<sup>th</sup> May 2011

<sup>16</sup> Amendment approved 16<sup>th</sup> December 2010

51. Management of the Councils civic ceremonial functions and to determine applications to use and authorise the use of the Councils coat of arms
52. To authorise the institution, defence or withdrawal or settlement of any claims or legal proceedings, civil or criminal in relation to any function of the Council or to protect any interest of the Council.
53. To prosecute or defend or appear in any legal proceedings and authorise any officer so to do.
54. To grant postponement of charges and the release of protective registrations in relation to financial charges on land in favour of the Council to include the postponement of charges in relation to discounts granted under the Right to Buy
55. In consultation with the Executive Director (Finance) and the relevant Director in relation to the subject matter to authorise any amendments and deeds of variation or rectification necessary to ensure legal agreements accurately reflect corporate decisions
56. To respond to requests for information and apply any necessary exemptions with respect to the Data Protection Act, 1998, Freedom of Information Act 2000, Environmental Information Regulations 2005 and the reuse of Public Sector Information Regulations 2005, and to maintain any relevant registers, registrations or records.
57. To maintain the Council's Data Protection registration and act as Data Protection Officer.
58. Authorise the use, loan or reproduction of the Councils archive material

## **CORPORATE MANAGEMENT TEAM**

**Such delegations to apply to each member of Corporate Management Team (as defined in Part 7 of the Constitution) jointly and severally.**

59. To manage and promote the services for which they are responsible and to enter into arrangements, or do anything else which is considered necessary or expedient in the management of the services and functions for which they are responsible including the acquisition of goods, works and services within budgets and policies approved by the Council and in compliance with the Financial Rules and Scheme of Financial Delegation and Code of Procurement
- 59a Monitoring Officer to make appointments to outside bodies in partnership with Group Leaders as vacancies arise throughout the year.<sup>17</sup>

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<sup>17</sup> Amendment approved 11<sup>th</sup> May 2017

60. Corporate Directors<sup>18</sup> to appoint staff (including temporary and agency staff) and in consultation with the Corporate Director or the Head of Human Resources and Organisational Development, to determine the terms and conditions of employment of staff subject to the same being within the Council's General Fund Budget and consistent with Council Policy including:
- approval of overtime.
  - the payment of honoraria
  - the payment of post entry training (PET) and, in consultation with the relevant Corporate Director<sup>19</sup>, the waiving the re-payment of PET costs
  - to grant study leave
  - to grant unpaid and compassionate leave
  - to authorise payment of professional fees
  - to authorise attendance of officers at courses and conferences
- But not any employment matter reserved to full Council or the Appointments Panel.<sup>20</sup>
61. To manage disciplinary matters.
62. In consultation with the Corporate Director or the Head of Human Resources and Organisational Development to declare an employee redundant and to determine applications for ill-health retirement subject to Council Policy and in line with relevant reports to the Staff Committee.<sup>21</sup>
63. To vire within revenue budget blocks and between capital schemes within approved limits.
64. To sign statutory notices and advertisements and to apply for planning permission and building regulations approval.
65. To exercise on behalf of the Council any right to enter on land conferred by statute in relation to matters within his/her jurisdiction for the purposes of the exercise of the Council's functions with regard to such matters.
66. To authorise the write-offs of stocks and stores deficiencies in accordance with the Financial Rules and Scheme of Financial Delegation.
67. To deal with the media in accordance with Council Policy.
68. To submit responses to consultation papers.

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<sup>18</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>19</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>20</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>21</sup> Amendment approved 13<sup>th</sup> May 2010.

69. To make ex gratia payments up to £500 to resolve justifiable complaints.
70. To approve expenditure from the consultation budget.
71. To incur reasonable expenses by way of hospitality.
- 71a <sup>22</sup>To authorise the allocation of external funding awarded to the Council and entry in to the associated financial and legal agreements up to £100,000 in consultation with the relevant portfolio holder and Leader of the Council.

## **CORPORATE DIRECTORS<sup>23</sup>**

### **Enforcement (General Provisions for all Corporate Directors<sup>24</sup>):**

72. Notwithstanding any specific powers detailed elsewhere to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of their functional area
73. To authorise officers to exercise rights of entry to land and premises

Each Director shall have the responsibility for those powers from the delegations listed below which relate to their functional areas.

### **Assets**

74. To manage the Council's property and engineering assets. To undertake the Council's asset management functions.

### **Building Control**

75. To exercise any power conferred on the Council under any of the acts or statutory instruments in Appendix A to the scheme of delegation in so far as each is relevant to the Council's Building Control function.
76. To act as the Council's Appointing Officer in respect of the Party Wall Act and to resolve disputes arising thereunder.
77. To act as a building authority.
78. To fix, vary, recover and advertise charges.

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<sup>22</sup> Amendment approved 14<sup>th</sup> December 2020

<sup>23</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>24</sup> Amendment approved 26<sup>th</sup> July 2012



79. To authorise and serve building control enforcement notices irrespective of whether authorised work and work carried out in contravention of building regulations and other building control related legislation and to authorise officers to exercise rights of entry to land and premises.

### **Bus Station**

80. To operate and manage Wisbech Horsefair Bus Station including the authorisation of/or taking of enforcement action where appropriate.

### **Business Development**

81. Generally to take action and operate all legislative and administrative procedures in pursuit of economic and industrial development of the district. Specifically, but not exclusively, to: -
1. Determine applications under Delegated Grant Schemes for Market Towns and Rural Development Initiative; to enter into leases and licences and assignments thereof in respect of the Council's commercial land and premises.
  2. To authorise expenditure on economic development initiatives in consultation with the portfolio holder.

### **Car Parking**

82. To operate and manage off street car parks including the authorisation of/or taking of enforcement action where appropriate.<sup>25</sup>

### **Caravan Sites**

83. To issue licences in respect of private travellers sites and to monitor the same including the authorisation of/or taking of enforcement action where appropriate.

### **CCTV**

84. To administer and operate the Council's CCTV system.

### **Cemeteries**

85. To grant burial rights and approve the erection of memorials in cemeteries and burial grounds.

### **Conservation of Historic Buildings**

86. Administrative and operational management of<sup>26</sup>: -
- i) Fenland Historic Building Grant Scheme

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<sup>25</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>26</sup> Amendment approved 13<sup>th</sup> May 2010

ii) Landscape Conservation Scheme

87. To:

- (i) issue Urgent Works Notices in relation to Listed Buildings and properties in conservation areas
- (ii) issue Repairs Notices in relation to Listed Buildings and properties in conservation areas
- (iii) in cases of urgency in consultation with the Chairman of the Planning Committee (unless such consultation would have a detrimental effect on this power) to:
  - a. authorise an application for an injunction
  - b. authorise the commencement of any legal proceedingssuch actions to be notified to the next scheduled meeting of the Planning Committee

### **Development Control**

88. Having ensured that all statutory requirements and Council policies have been complied with and after considering all representations received;<sup>27</sup> 23(i)

(i) Determine all 'other', 'minor' and 'planning permission in principal (and associated technical consents)<sup>28</sup> applications submitted under any of the Acts or Statutory Instruments set out in Appendix A to this Scheme unless:-

- Called-in by Member (the development must be within their ward area or adjacent ward area and the Member request has been granted by the Head of Planning in consultation with the Chairman of Planning or substitute<sup>29</sup>).
- 6 or more unresolved written opinions from 6 individuals, groups or organisations<sup>30</sup> are received from within the ward area or adjacent ward area which differ from the officer recommendation.
- Town/Parish views are in conflict with officer recommendation and the application is for more than 2 dwellings.
- The Head of Planning considers that the application merits committee consideration on the grounds of wider planning interests.<sup>31</sup>

For

- 'other' and 'minor' applications which have either FDC or Member involvement OR
- 'other' and 'minor' applications where the officer recommendation is for refusal

the following procedure will apply;

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<sup>27</sup> Amendment approved 18<sup>th</sup> September 2014

<sup>28</sup> Amendment approved 14<sup>th</sup> December 2020

<sup>29</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>30</sup> Amendment approved 14<sup>th</sup> December 2020

<sup>31</sup> Amendment approved 6<sup>th</sup> August 2020

The Head of Planning will consult the Chairman of Planning Committee and decide if:

The application should be determined by the Planning Committee OR the application should be determined under delegated powers by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee the recommendation is accepted, the case officer's decision will be countersigned by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee there are wider planning issues to consider the matter will be placed on the Planning Committee agenda.<sup>32</sup>

(ii) Determine all 'major' applications submitted under any of the Acts or Statutory Instruments set out in Appendix A to this Scheme unless:-

- FDC or Member involvement
- Called-in by a Member (the development must be within their ward area or adjacent ward area and the Member request has been granted by the Head of Planning in consultation with the Chairman of Planning)<sup>33</sup>
- 6 or more written views from 6 individuals, groups, or organisations<sup>34</sup> are received (from the ward or adjacent ward)<sup>35</sup> which conflict with the officer recommendation
- Town/Parish views are in conflict with officer recommendation
- Statutory Consultee views are in conflict with officer recommendation
- The Head of Planning considers that the application merits committee consideration on the grounds of wider planning interests.<sup>36</sup>
- The application is recommended for refusal in which case the following procedure will apply;

The Head of Planning will consult the Chairman of Planning Committee and decide if:

The application should be determined by the Planning Committee OR the application should be determined under delegated powers by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee the recommendation is

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<sup>32</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>33</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>34</sup> Amendment approved 14<sup>th</sup> December 2020

<sup>35</sup> Amendment approved 14<sup>th</sup> December 2020

<sup>36</sup> Amendment approved 6<sup>th</sup> August 2020

accepted, the case officer's decision will be countersigned by the Head of Planning.

If in the opinion of the Head of Planning in consultation with the Chairman of Planning Committee there are wider planning issues to consider the matter will be placed on the Planning Committee agenda.<sup>37</sup>

- (iii) determine all applications pursuant to conditions attached to permissions,
- (iv) determine all requests for minor amendments to permissions,
- (v) determine all applications for certificates of lawfulness,
- (vi) respond to all consultations from Cambridgeshire County Council regarding applications submitted to them as the relevant Planning Authority,
- (vii) determine all applications for works to trees and those submitted under the Hedgerow Regulations 1997,
- (viii) determine all prior notification applications and all subsequent detailed submissions applications, but in the case of telecommunication applications where the officer is minded to recommend refusal the Head of Planning will consult the Chairman of Planning Committee and decide if:  
The application should be determined by the Planning Committee OR  
the application should be determined under delegated powers by the Head of Planning.<sup>38</sup>
- (ix) determine all requests for screening or scoping opinions under the relevant legislation,
- (x) determine all applications for Ancient Monument Consent,
- (xi) determine all applications for Hazardous Substances Consent,
- (xii) determine all queries relating to 'permitted development' i.e. is permission/approval/consent/notification required,
- (xiii) make and confirm Tree Preservation Orders unless any relevant objections are received.
- (xiv) Respond to applications for Goods Operators' Licences as appropriate,

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<sup>37</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>38</sup> Amendment approved 6<sup>th</sup> August 2020

- (xv) Respond to consultation regarding the erection or modification of overhead power lines and ancillary equipment,
- (xvi) Determine applications for Certificates of Appropriate Alternative Development,
- (xvii) To enter into legal agreements under Section 106 of the Town & Country Planning Act 1990.
- (xviii) To decline to determine applications under Section 70 A, B & C of the Town & Country Planning Act 1990.<sup>39</sup>

Definitions for section:-

Major applications (Department for Communities and Local Government codes 1-5),

- 10 or more dwellings or site area of more than 0.5ha,
- All other land uses – involving floor space of more than 1,000 sq m or a site area of more than 1ha,

Minor applications (Department for Communities and Local Government codes 6-10),

- 1-9 dwellings
- All other land uses involving floor space of less than 1,000sqm or sites of less than 1ha,

Other applications (Department for Communities and Local Government codes 11-17)

- Changes of use (except where fall into major category)
- Householder developments (within the curtilage of a residential property except for changes of use and creation of additional dwellings),
- Advertisements,
- Listed Building consent to alter/extend
- Listed Building consent to demolish
- Conservation Area consents

FDC/Member involvement:-

- Landowner,
- Applicant
- Agent
- Staff member working in Development Service or in a closely associated Service

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<sup>39</sup> Amendment approved 6<sup>th</sup> August 2020

## OVERALL PROVISOS TO SECTION 88

any Fenland District Council member can require any delegated application in Category (ii) above to be referred to the Planning Committee for consideration by notification in writing to the Head of Development at [planning@fenland.gov.uk](mailto:planning@fenland.gov.uk)<sup>40</sup> within three weeks of registration date (such notification must provide planning reasons for requesting reference to Committee and these planning reasons must subsequently be incorporated in the report to Committee). The scrutiny of the weekly list of applications circulated to members will facilitate this safeguard.

Head of Planning consultation with the Chairman on officer delegated refusals and call in process:

- There is a 48-hour period (equivalent to 2 working days) allowed for a consultation response to be received.
- A nil or late response will automatically mean that a delegated decision will be made on the application.
- Where there is a conflict of interest for the Chairman or substitute, a delegated decision on the application will be made.
- The consultation reply must be in writing and give a planning justification for any request for Planning Committee consideration.
- The Chairman must advise the Head of Planning and Development Manager of times when the substitute is acting.<sup>41</sup>

### 89. Planning Enforcement:

To:

- (i) issue Planning Contravention Notices;
- (ii) issue Requisitions for Information;
- (iii) authorise and issue Breach of Condition Notice proceedings;
- (iv) authorise and issue Waste Land Notices;
- (v) authorise and initiate Proceedings against Fly Posters;
- (vi) authorise and initiate Proceedings against Unauthorised Signs.
- (vii) issue Temporary Stop Notices
- (ix) issue Enforcement Notices

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<sup>40</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>41</sup> Amendment approved 6<sup>th</sup> August 2020

(x) in cases of urgency in consultation with the Chairman of the Planning Committee (unless such consultation would have a detrimental effect on this power) to:

- a. issue a Stop Notice
- b. authorise an application for an injunction
- c. authorise the commencement of any legal proceedings such actions to be notified to the next scheduled meeting of the Planning Committee
- d. authorise prosecution following non-compliance with an enforcement notice of any type<sup>42</sup>

(xi) issue notices requiring the Proper Maintenance of Land<sup>43</sup>

89a. Brownfield Register

To prepare and publish sites in Part 1 of a Brownfield Land Register, as defined by The Town and Country Planning (Brownfield Land Register) Regulations 2017.<sup>44</sup>

89b. To operate the Council's neighbourhood planning function (except for the 'making' (adoption) of such Orders and Plans) including, but not necessarily limited by, the following:

- The designation of neighbourhood areas and neighbourhood forums
- Providing comments on behalf of the Council to consultations on draft plans or orders
- Making decisions on behalf of the Council on whether a plan meets the basic conditions and should proceed to referendum, following the receipt of a report from the independent examiner and publishing this decision.<sup>45</sup>

### **Food Safety Services, Health Services and Environmental Services**

90. Generally to take action, to operate all legislative and administrative procedures including, but not limited to authorising any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instrument set out in Appendix A to this Scheme, (including the power to appoint or revoke the appointment of authorised officers) if and in so far as each is relevant to the Council's environment functions.

91. Generally to take action and operate all legislative and administrative procedures in relating to the licensing and regulation of premises and activities. To issue licences and certificates or effect registration under powers conferred by any of the Acts or Statutory Instruments listed in

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<sup>42</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>43</sup> Amendment approved 29<sup>th</sup> July 2010

<sup>44</sup> Amendment approved 14<sup>th</sup> December 2017

<sup>45</sup> Amendment approved 14<sup>th</sup> December 2017

Appendix A to this scheme of delegation and to make representations in respect of applications.

92. To act as inspector and to appoint others to act as inspectors (including the termination of appointment of those inspectors) in accordance with any powers contained in any of the Acts of or Statutory Instruments listed in Appendix A to this scheme of delegation in relation to the Council's food safety, environmental and health functions.

### **Housing Functions**

93. To allocate tenancies, set rents, approve disturbance payments, adaptations and alterations and consent to transfers and mutual exchanges and to authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document and the determination of grants in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme insofar as each is relevant to the exercise of the Council's housing function.
94. To certify Housing Corporation and Registered Social Landlords.
95. To administer and manage the Council's homelessness functions and the Housing Register

### **Land Charges**

96. To act as the Registrar of Local Land Charges

### **Land Drainage**

97. To undertake and exercise the Council's land drainage functions, including the repair, maintenance and cleansing of Watercourses and culverts and the approval to culvert.

### **Land Ownership:**

98. To approve terms for any lease or letting of land or property where the rent payable is not less than the open market rent for that property.
99. To authorise the renewal and termination of commercial leases protected by Part 2 of the Landlord and Tenant Act 1954
100. To authorise the commencement and settlement of rent reviews in line with the provisions of existing leases to which the Council is a party
101. To authorise licences to assign for any lease, grant any wayleave or easement, or to agree any change (including revocation) of any



freehold or leasehold covenant where it is in the Councils interest to do so.

- 102. To authorise the freehold acquisition or disposal of any land up to the value of £100,000<sup>46</sup>
- 103. To authorise the appropriation of land to any purpose provided that any statutory consultation has been complied with and in the absence of any representations

### Licensing

- 104. To administer and decide on Licensing applications including those under the Licensing Act 2003 in accordance with the following;

Matters to be dealt with	Sub Committee	Officers
Application for a Personal Licence	If Police objection	If no objection made
Application for Personal licence with unspent convictions	All Cases	
Application for premises licence/club premise certificate	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn
Application for provisional statement	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary premises licence/club premises certificate.	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases

<sup>46</sup> Amendment approved 13<sup>th</sup> May 2010

Application for transfer of premises licence	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Off-sales review following the automatic modification of a relevant premises licence under the Business and Planning Act 2020. <sup>47</sup>	All cases	
Interim steps pending off-sales review. <sup>48</sup>		All cases
Determination of representations against interim steps pending off-sales review. <sup>49</sup>	All cases	
*Decision on whether a complaint is frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of minor variation application		All cases
Making a representation on behalf of the Licensing Authority		Corporate Director

<sup>47</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>48</sup> Amendment approved 6<sup>th</sup> August 2020

<sup>49</sup> Amendment approved 6<sup>th</sup> August 2020

Initiating a Review on behalf of the Licensing Authority		Corporate Director
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\*To determine whether a complaint is frivolous or vexatious the following procedure will apply:

The Licensing Manager will draft a report and make a recommendation which will be reviewed by the Corporate Director, the Chairman of Licensing and a Legal Officer.

If in the opinion of the Head of Service for Licensing and the Chairman of Licensing the recommendation is accepted, the Licensing Manager's decision will be countersigned by the Corporate Director and Chairman of Licensing.

If in the opinion of the Corporate Director and the Chairman of Licensing there are wider issues to consider the matter will be placed before a Licensing Committee Hearing.

#### 104A. Pavement Licences<sup>50</sup>

In relation activities under the Business and Planning Act 2020:

- (i) To conduct a public consultation review in respect of an application for a pavement licence;
- (ii) To grant a pavement licence for a minimum of 3 months but for no longer duration than 30th September 2021 and subject to any conditions published by the Secretary of State or as reasonably required by Fenland District Council;
- (iii) To refuse the grant of a pavement licence;
- (iv) To revoke the pavement licence or service notice on the licence holder requiring them to take steps to remedy a breach of the conditions of that licence where it is considered that such a breach has occurred;
- (v) To revoke the pavement licence where the licence holder fails to comply with a notice served under paragraph 104A(iv) above or to take the required steps and recover the costs of doing so from the licence holder.

105. To determine applications for licences to perform hypnotism entertainment.

106. Approval of applications for hackney carriages and private hire vehicle driver licences except those falling within the categories in paragraphs (i) to (v) below, when they will go to the Licensing Committee or panels thereof:-

- (i) Applications which disclose that the applicant has been convicted of an offence involving indecency or violence;

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<sup>50</sup> Amendment approved 6<sup>th</sup> August 2020

- (ii) Applications which disclose that the applicant has been convicted of an offence involving dishonesty or drugs;
  - (iii) Applications which disclose that the applicant has been convicted of an offence under the provisions of the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976;
  - (iv) Applications which disclose that the applicant has been convicted of an offence relating to the driving or ownership of a motor vehicle and has more than six penalty points on his/her licence;
  - (v) Applications which disclose that the applicant has committed a breach of, or failed to comply with, the terms of an existing or previous hackney carriage or private hire licence.
107. To approve applications for hackney carriage and private hire drivers licences that fall within any of the categories set out in paragraphs (i) to (v) of the preceding paragraph if in the opinion of the Monitoring Officer any offence by the applicant is so minor or irrelevant as to have no proper bearing on the determination of the application.
108. In relation to activities under the Gambling Act 2005 to:
1. Determine whether representations received in relation to applications are relevant;
  2. Undertake discussions and/or negotiations with applicants and objectors to overcome objections where possible;
  3. In respect of applications that have generated no relevant objections or where representations have been withdrawn to grant:
    - i. a premises licence
    - ii. applications for a variation of a premises licence
    - iii. a provisional statement
    - iv. a club gaming / club machine permit
    - v. other permits where there are no more than two permits in alcohol licensed premises
    - vi. a temporary use notice
  4. Where there are no representations from the Gambling Commission to grant a transfer of a licence
  5. Where all relevant parties agree to attach or exclude a condition from a premises licence
  6. Revoke a premises licence for non payment of the annual fee in accordance with section 193 of the Gambling Act 2005 in consultation with the Chairman of the Licensing Committee and the Legal Services Manager
109. In relation to Street Collections authority to:
1. grant any application for a collection; or
  2. refuse an application for a collection where in their opinion having consulted with the Chairman of the Licensing Committee the proposed collection will materially overlap with another collection either in terms of the location of the areas to be visited or the dates on which the collection will be undertaken. Such determination to

have regard to the nature of the respective collections and the likelihood of material interference

110. In relation to House to House Collections authority to:
1. grant any application for a collection; or
  2. refuse an application for a collection where in their opinion having consulted with the Chairman of the Licensing Committee the proposed collection:
    - a. will materially overlap with another collection either in terms of the location of the areas to be visited or the dates on which the collection will be undertaken. Such determination to have regard to the nature of the respective collections and the likelihood of material interference; and/or they are satisfied that:
    - b. the total amount likely to be applied for charitable purposes as a result of the collection (including any amount already applied) is inadequate in proportion to the total value of the proceeds likely to be received (including any proceeds already received);
    - c. the promoter or a collector or any other person is likely to receive remuneration that is excessive in relation to the total amounts received;
    - d. the applicant is not a fit and proper person to hold a licence as he/she has been convicted in the UK or any of the offences specified in the House to House Collections Act 1939, or has been convicted outside of the UK of any offence involving fraud or dishonesty, or any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
  3. revoke any licence where in their opinion and having consulted with the Chairman of the Licensing Committee the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted fails:
    - a. to exercise due diligence to ensure that persons authorised to act as collectors for the purpose of the collection were fit and proper persons;
    - b. to secure compliance on the part of the persons so authorised with the provisions of the Regulations made under the Act;
    - c. to prevent prescribed badges or prescribed certificates of authority being obtained by persons other than persons so authorised;
    - d. where the applicant or holder of the licence has refused or neglected to provide the licensing authority with such information as they may have reasonably been required to provide for the purpose of informing the licensing authority as to any of the matters specified in the foregoing paragraphs;
    - e. where any of the situations in 2 b to d inclusive occur following the grant of a licence.

## **Markets and Fairs**

111. To operate and manage the Council's markets including
  1. The granting of pitch licences
  2. The management and organisation of the markets and their activities
  3. Updating market regulations and codes of conduct in consultation with the relevant Portfolio Holder
  4. the authorisation of or the taking of enforcement action where appropriate.
112. To operate and manage fairs including the authorisation of or taking of enforcement action where appropriate

## **Port**

113. The operation and administration of the Council's powers and duties as Harbour Authority including the authorisation and/or taking of enforcement action where appropriate.
114. To operate the Port Marine Safety Code.

## **Radio Communications**

115. To purchase, maintain all radio communications equipment and to manage the radio communications system and to enforce legislation to operate radio communications systems.

## **Recycling**

116. To set new rates for third party recycling credits.

## **Town Centres**

117. To authorise and manage the provision/erection of Christmas lights/trees, equipment in the town centres by Town Council and other bodies.

## **Transport Services**

118. To authorise and take enforcement action including the service of any notices, orders or other documents and administrative procedures in relation to the Council's transport functions.
119. To purchase all goods, vehicles, plant and equipment, parts and lubricants in accordance with the Financial Rules and Scheme of Financial Delegation and Code of Procurement;
120. To maintain the Council's fleet of vehicles, including lease cars, in accordance with the Construction and Use Regulations 1986;

121. To dispose of all used assets with regards to transport, plant and equipment owned by Fenland District Council in accordance with the Code of Procurement and Code of Financial Management;
122. To manage the annual inspection of all pressure vessels, lifting equipment and pumps that are owned by Fenland District Council and be responsible for the correct maintenance and repairs under the Transportable Pressure Receptacle Regulations 1989 and any other regulations associated with such equipment;
123. To suspend any employee from driving a Council vehicle if it is considered the driver is in contravention of any Act or is likely to cause an accident or injury to themselves or others.
124. To fulfil all responsibilities in relation to rights of way matters except where there are 5 or more unresolved objections.<sup>51</sup>

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<sup>51</sup> Amendment approved 14<sup>th</sup> December 2017

## APPENDIX A<sup>52</sup>

The list below of legislation is not to be taken as exhaustive and shall be taken to include any amended, consequential, ancillary, subsidiary, consolidating Act, Statutory Instrument, Regulation or Order

Animals Act 1976  
Animal Boarding Establishments Act 1963  
Animal Health Act 1981  
Approved Inspector Regulations 1995  
Anti-Social Behaviour Act 2003  
Betting, Gaming and Lotteries Act 1963  
Breeding of Dogs Act 1973  
Building Act 1984  
Building (Local Authority Charges) Regulations 1998  
Building Regulations 2000  
Caravan Sites and Control of Development Act 1960  
Carriage of Dangerous Goods by Road Act 1996  
Carriage of Goods by Road Act 1965  
Carriage by Air and Road Act 1979  
Carriers Act 1830  
Child Support, Pensions and Social Security Act 2000  
Cinemas Act 1985  
Civil Contingencies Act 2004  
Civil Defence Act 1948  
Civic Amenities Act 1967  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Construction and Use Regulations 1986  
Control of Asbestos at Work Regulations 1987  
Control of Pesticides Regulations 1986  
Control of Pollution Act 1974  
Coronavirus Act 2020<sup>53</sup>  
Crime and Disorder Act 1998  
Criminal Law Act 1976  
Criminal Law Act 1977  
Criminal Attempt Act 1981  
Criminal Justice and Immigration Act 2008<sup>54</sup>  
Criminal Justice and Police Act 2001  
Criminal Justice and Public Order Act 1994  
Crop Residues (Burning) Regulations 1983  
Dangerous Dogs Act 1991  
Dangerous Wild Animals Act 1976  
Data Protection Act 1984  
Dogs (Fouling of Land) Act 1996

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<sup>52</sup> Amendment to Appendix A approved 21<sup>st</sup> December 2006 further amendments approved 20<sup>th</sup> December 2007 and 8<sup>th</sup> February 2008

<sup>53</sup> Amendment approved 30<sup>th</sup> April 2020

<sup>54</sup> Inserted 15<sup>th</sup> June 2009



Egg Products Regulations 1993  
Employment Act 1973  
Environment Act 1995  
Environmental Protection Act 1990  
European Communities Act 1972  
European Parliamentary Elections Act 1978.  
Factories Act 1961  
Food Premises (Registration) Regulations 1991  
Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992.  
Food Act 1984  
Food Act 1990  
Food Safety Act 1990  
Food and Environmental Protection Act 1985  
Freedom of Information Act 2000  
Fresh Meat (Health and I) Regulations 1992  
Fresh Meat, Poultry Meat (H,I&E)Regulations 1990  
Game Act 1831  
Gambling Act 2005  
Gaming Act 1968  
Gaming Act 2003  
Goods Vehicles (Licensing of Operators) Act 1995  
Guard Dogs Act 1975  
Health Act 2006  
Health and Safety at Work etc Act 1974  
Health and Safety at Work Act (Enforcing Authority) Regulations 1989  
Health and Safety at Work Act 1990  
Health and Social Care Act 2008<sup>55</sup>  
Health Protection (Local Authority Powers) Regulations 2010<sup>56</sup>  
Health Protection (Part 2A Orders) Regulations 2010<sup>57</sup>  
Health Protection (Notification) Regulations 2010<sup>58</sup>  
Highways Act 1980  
Highways Amendment Act 1986  
Home Energy Efficiency Act 1995  
Homelessness Act 2002  
House to House Collections Act 1939  
Housing Act 1985  
Housing Act 1989  
Housing Act 1996  
Housing Act 2004  
Housing Benefit (General Regulations) 1987  
Housing Grants, Construction and Regeneration Act 1996  
Housing (Homeless Persons) Act 1977  
Hypnotism Act 1952  
Insolvency Act 1986  
Land Compensation Act 1973  
Land Drainage Act 1976

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<sup>55</sup> Inserted 15<sup>th</sup> June 2009

<sup>56</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>57</sup> Amendment approved 13<sup>th</sup> May 2010.

<sup>58</sup> Amendment approved 13<sup>th</sup> May 2010.

Land Drainage Act 1991  
Late Night Refreshment Houses Act 1969  
Licensing Act 1964  
Licensing Act 2003  
Local Authorities (Executive Arrangements) (Access to Information) Regulations (England) 2000  
Local Government (Access to Information) Act 1985  
Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government and Housing Act 1989  
Local Government and Public Involvement in Health Act 2007  
Local Government Act 1972  
Local Government Act 2000  
Local Government Finance Act 1988  
Local Government Finance Act 1992  
Localism Act 2011<sup>59</sup>  
Lotteries and Amusements Act 1976  
Milk and Dairies (General) Regulations 1959  
Milk (Special Designation) Regulations 1989  
Mobile Homes Act 1975  
Mobile Homes Act 1983  
National Assistance Act 1948  
National Assistance (Amendment) Act 1951<sup>60</sup>  
Noise and Statutory Nuisance Act 1993  
Noise Act 1996  
Office, Shops and Railways Premises Act 1963  
Party Wall (etc) Act 1996  
Pesticides Act 1998  
Pet Animals Act 1951  
Planning and Compulsory Purchase Act 2004  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Planning (Hazardous Substance) Act 1990  
Police Act 1997  
Police, Factories etc (Miscellaneous Provisions) Act 1916  
Pollution, Prevention and Control Act 1999  
Poultry Meat (Hygiene) Regulations 1976  
Private Security Industry Act 2001  
Prevention of Damage by Pests Act 1949  
Protection from Eviction Act 1977  
Public Health Act 1925  
Public Health Act 1936  
Public Health Act 1961  
Public Health (Ships) Regulations 1979  
Public Health (Control of Disease) Act 1984  
Public Health Act 1907

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<sup>59</sup> Amendment approved 26<sup>th</sup> July 2012

<sup>60</sup> Inserted 15<sup>th</sup> June 2009

Refuse Disposal (Amenity) Act 1978  
Rent Agriculture Act 1976  
Regulation of Investigatory Powers Act 2000  
Representation of the People Act 1983  
Representation of the People Act 2001  
Riding Establishments Act 1964  
Riding Establishments Act 1970  
Road Safety Act 2006  
Road Traffic Act 1974  
Road Traffic (Drivers' Ages and Hours of Work) Act 1976  
Road Traffic Act 1988  
Road Traffic Act 1991  
Road Traffic Amendment Act 1967  
Road Traffic Regulation Act 1984  
Road Traffic Reduction Act 1997  
Road Traffic (New Driver) Act 1995  
Scrap Metal Dealers Act 1964  
Shops Act 1950  
Slaughter of Poultry Act 1967  
Social Security Act 1986  
Social Security Administration Act 1992  
Social Security Administration (Fraud) Act 1997  
Special Waste Regulations 1996  
Sunbeds (Regulation) Act 2010<sup>61</sup>  
Sunday Entertainments Act 1932  
Sunday Trading Act 1994  
Theatres Act 1968  
Town and Country Planning Act 1990  
Town and Country Planning (Listed Building and Conservation Areas) Act 1990  
Town and Country Planning (General Development Procedure Order) 1995  
Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999  
Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2000  
Town and Country Planning (Inquiries Procedure) (England) Rules 2000  
Town Improvement Clauses Act 1875  
Town Police Clauses Act 1847  
Transport Act 1968  
Transport Act 1976  
Transport Act 1980  
Transport Act 1981  
Transport Act 1982  
Transportable Pressure Receptacle Regulations 1989  
Vehicles (Crime) Act 2001  
Vehicle Excise Registration Act 1994  
Water Industry Act 1991  
Wireless Telegraphs Act 1998

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<sup>61</sup> Amendment Approved 19<sup>th</sup> May 2011

**APPENDIX B**

**FENLAND DISTRICT COUNCIL**

**RECORD OF AUTHORISATION  
(To be copied to Monitoring Officer)**

1. Authority/Power to be authorised (including paragraph reference) from Scheme of Delegation

Paragraph in scheme .....  
.....

2. Officer (title and name) authorising exercise of the power.

.....

**Signature**.....

**Date**.....

3. Officer (title and name) to whom power is authorised

.....

4. Details of any limits/condition imposed upon onward authorisation

.....

## **TABLE 5 - FUNCTIONS DELEGATED TO ALL PORTFOLIO HOLDERS<sup>62</sup>**

The following functions are delegated to portfolio holders, only to the extent to which they are outside of the specific functions delegated to officers in Table 4 of this document and the Codes of Financial Management and Procurement.

### **All Portfolio Holders**

1. To monitor all Performance Indicators within their Portfolio responsibility.
2. To monitor delivery of those elements of the Corporate Plan within their responsibility.
3. To approve grant applications in accordance with adopted policy and existing budget.
4. Selection of tenderers for contracts within approved budgets.
5. To respond to consultation documents within portfolio responsibility.
6. To respond to petitions not presented to Council.
7. To approve the acquisition or disposal of freehold land up to £250,000
8. To approve any action within their functional area up to a value of £250,000.
9. All portfolio holders, including the Leader, have delegated authority to take executive decisions on behalf of the Council in circumstances where the matter is urgent. A decision will be urgent if any delay would seriously prejudice the Council's or the public interest. The request for a decision to be deemed urgent will be considered by the Chairman of the Overview and Scrutiny Panel (in accordance with Rules of Procedure 2 and 5) and the relevant member of the Corporate Management Team/Chief Executive who will take into account the reasons provided. The decision will only be taken if the Chairman of the Overview and Scrutiny Panel and the relevant member of the Corporate Management Team/Chief Executive agree that the decision is a matter of urgency. The decision will be recorded via a Cabinet Member Decision Notice and the public record of the decision will state:
  - (a) Why in the opinion of the decision making person and the relevant member of Corporate Management Team/Chief Executive, the decision is urgent; and

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<sup>62</sup> Amendments to Table 5 approved 17 May 2007, and further amendments on 20th December 2007

(b) The consent of the Chairman of the Overview and Scrutiny Panel. In the absence of the Chairman of the Overview and Scrutiny Panel, Rules of Procedure 2 will apply.<sup>63</sup>

10. <sup>64</sup>To authorise the allocation of external funding awarded to the Council and entry in to the associated financial and legal agreements up to the following limits:

<b>Value</b>	<b>Designation</b>
Up to £100,000	Corporate Directors in consultation with the relevant Portfolio Holder and Leader of the Council.
Between £100,001 and £500,000	Cabinet Member and Leader of the Council
Over £500,001	Cabinet

### **Finance Portfolio Holder**

1. To authorise the writing-off of debts within approved limits.
2. To authorise the writing-off of stock within approved limits.

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<sup>63</sup> Amendment approved 19 July 2018

<sup>64</sup> Amendment approved 14 December 2020