



## Scheme of Delegation

### 1. S101 delegation of powers

Section 101 of the Local Government Act 1972 allows local Councils to appoint committees and sub-committees to discharge any of its functions and make decisions on behalf of the Council. S101 requires formally agreed Terms of Reference by the Council that set out the key themes of the delegation and the financial thresholds that apply.

The membership and terms of office of Committees and Standing Sub-Committees are fixed by the Council.

It is not necessary for the Council to ratify the decisions of committees where delegation applies. The scheme outlined below may be amended at any time by the Council with or without any recommendation from a Committee, Sub-Committee, or other body.

### 2. Delegation of Power

Section 101 of the Local Government Act 1972 provides:

- a) That a Council may delegate its powers (except those incapable of delegation) to a committee or an officer.
- b) A Committee may delegate its powers to an officer.
- c) The delegating body may exercise powers that have been delegated.

The following items may not be delegated to the Clerk or a committee, and are reserved to the Council for decision, notwithstanding that the appropriate committees may make recommendations for the Council's consideration:

- a) To appoint the Chairman and Vice-Chairman in May each year
- b) To sign off the Governance Statement by 30 June each year
- c) To set the precept
- d) To appoint the Head of Paid Service (Clerk)
- e) To make byelaws
- f) To borrow money
- g) To consider any matter required by law to be considered by Council.
- h) To make, amend or revoke Standing Orders, Financial Regulations, Terms of Reference of Committees, or this Scheme of Delegation
- i) Matters of Policy
- j) Nomination and appointment of representatives of the Council to any other authority, organisation or body.
- k) Prosecution or defence in a court of law
- l) Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Village, excluding those matters specific to a committee.

### 3. Delegation to the Proper Officer

Any delegation to the Proper Officer (Clerk) shall be exercised in compliance with the Council's Standing Orders, any other policies or conditions imposed by the Council, and within the law. The Proper Officer may nominate another named officer to carry out any powers and duties which have been delegated to that officer.

The Council's Scheme of Delegation authorises the Clerk to the Council as the Council's Proper Officer to act with delegated authority to undertake the following matters on behalf of the Council:

- a) The day-to-day administration of services, facilities, and assets, together with routine inspection and control.
- b) Day-to-day management of all the staff employed by the Council.
- c) Recruitment of staff, other than the Clerk and the RFO, on terms agreed by the Personnel Committee.
- d) Authorisation of routine expenditure within the agreed budget.
- e) Emergency expenditure up to £5000 outside the agreed budget.
- f) To act as the Council's designated officer for the Freedom of Information Act 2000.
- g) To act on any issue so urgent and important that it cannot wait until the next Council meeting; the Clerk is empowered to take any and all decisions that would normally be taken by Full Council, a committee or a working group, having consulted, where possible, a minimum of two members including the Chair and/or Vice Chair of the Council. Consultation may be by email or by telephone, or by virtual meeting, followed by a confirmation email. If circumstances do not permit the input of at least two councillors, the Clerk would be expected to consult with the Chair as a minimum and take their view into account.
- h) Where the Proper Officer is contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should ensure that they obtain appropriate legal, financial, and other specialist advice before action is taken.
- i) All decisions taken under delegated authority will be reported to the first appropriate Council meeting.

#### **4. Planning Matters**

Planning Applications shall be received by the Clerk or a named officer of the Council, who will provide details to members of the Development and Strategy Committee.

The Clerk, or named officer, shall, following consultation with the Chair of the Development and Strategy Committee and another member of the committee, be delegated to inform Cherwell District Council Planning Officers of the decisions or comments of the Council if Development and Strategy Committee cannot meet within the time allocated.

If Council should decide that it is advisable for the Development and Strategy Committee not to meet in person, it may allow it to meet on-line, with public participation, and may delegate powers to the Clerk to receive the comments of the on-line Committee and report its recommendations to the Planning Authority.

Details of comments submitted to the District Council shall be reported to the next meeting of the Council.

#### **5. Delegation to Standing Committees and Work Groups**

- a) Standing Committees are defined in the Terms of Reference and are delegated to operate within those terms; any expenditure can only be approved within the available budget for that committee.
  - b) Standing Committees are responsible for monitoring expenditure against any budgets allocated to them, subject to the overall financial supervision of the Finance Committee.
6. A committee may, from time to time, be delegated authority from the Full Council to deliver a service or project, with the exception of any items that may not be delegated as listed in Section 2 above.
- a) A committee may refer matters on which it has delegated authority to the Council for a final decision if it so wishes.
  - b) A committee chairman may, in conjunction with the Clerk, cancel a meeting or call an additional meeting of the committee they represent.
  - c) Delegated actions of the committees shall be in accordance with Standing Orders, Financial Regulations, and this Scheme of Delegation and with directions given by the Full Council from time to time.
  - d) Work Groups may be formed by resolution of the Council or a committee at any time. The work of such a work group will be decided upon at the time it is formed by means of a minute detailing the terms of reference.
  - e) Each work group will report back with recommendations to the Council or the committee that formed it.
  - f) In cases of doubt whether a decision lies within a committee's delegated powers, the matter must be referred to the Council.

## **7. Emergency Delegation Powers**

When circumstances require, Council allows the delegation of its activities to an Emergency Delegation Panel (EDP) which consists of the Clerk with the Chair, Vice Chair and the Chairs of Standing Committees.

The EDP will come into force when either

- (1) Council meetings have to be suspended due to circumstances outside of the Council's control, or
- (2) an urgent decision is needed, and timescales do not allow an emergency Council meeting.

The EDP will itself decide when its powers need to be invoked. It will consult all councillors as far as possible before doing so and notify them of any decisions taken. When its powers are invoked under (1), the regular Calendar of meetings will as far as possible continue on-line, on an advisory basis.

Council may decide that, for reasons beyond its control, Standing Committee and Sub-Committee meetings may be held online, with public participation, rather than face to face. If so, their status will be advisory, and their decisions will have to be ratified by a face-to-face meeting of the full Council, depending on the state of legislation with regard to virtual meetings of councils and/or their committees.