



## **OTTERY ST MARY TOWN COUNCIL**

### **SCHEME OF DELEGATION**

**APPROVED BY OTTERY ST MARY TOWN COUNCIL AT ITS MEETING ON 23<sup>RD</sup> MARCH 2020  
MINUTE NO:- 20/3/34**

Local Councils may only do what legislation requires or permits them to do. With some particular exceptions, the Council may delegate functions to committees, sub committees, officers, or other authorities. The power to delegate functions by local councils is set out in the Local Government Act 1972 S. 101 as follows:

Arrangements for discharge of function by local authorities

(1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions:

(a) by a Committee, a sub-Committee or an officer of the authority, or

(b) by any other local authority

(2) Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee of the authority, then unless the local authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority.

(3) Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub committee, officer or local authority shall not prevent the authority or committee by whom the arrangements are made from exercising those functions.

(4) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so, they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities.

(5) A local authority's functions with respect to issuing a precept for a rate or borrowing money shall be discharged only by the authority.

The aim of this document is to clarify the manner in which Ottery St Mary Town Council (the Council) has delegated its powers and the authority to spend.

The Council does not have the power to delegate a decision to an individual Councillor.

### **1. Decisions of the Full Council:**

The matters below are the sole responsibility of the Full Council:

- a) Approving the precept level of the Town Council;
- b) Authorising borrowing;
- c) Appointing representatives to outside bodies;
- d) Making, amending, revoking, re-enacting or adopting by-laws;
- e) Agreeing the Town Council's Statement of Accounts and Annual Governance Statement.

### **2. Committees and Sub-Committees**

Procedures for delegation for the specific committees and sub-committees are specified under the Terms of Reference for each committee or sub-committee. Committees can arrange for the discharge of any of their delegated powers to a subcommittee

### **3. Working Parties/Groups**

Working Parties or Groups have no delegated powers; they are only able to recommend a course of action to the Council/Committee/Sub-Committee under which they are formed.

### **4. Staffing**

Under the Local Government Act 1972 the Town Council "shall appoint such officers as they think necessary for the proper discharge by the authority of such of their or another authority's functions as fall to be discharged by them".

#### **4.1 Responsible Financial Officer (RFO)**

The Responsible Financial Officer to the Council is responsible for the Council's accounting procedures and financial records and is accountable for the proper administration of its finances, in line with the current Account and Audit Regulations

and the Council's adopted Financial Regulations. The functions and duties of the RFO are set out in the job description for the post.

## **4.2 Proper Officer**

The Chief Executive Officer (`CEO`) shall be the Proper Officer and shall carry out the functions as provided by the Local Government Act 1972, and as set out in the job description for the post. The Council may delegate the full authority of the Proper Officer to any other temporary or permanent member of staff to act in the absence of the CEO. Delegated actions 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.

## **5. The CEO is specifically authorised to:**

- Receive declarations of acceptance of office;
- Receive and publish Members' declarations of interest, and pass the originals to the Monitoring Officer of the Principal Authority;
- Receive and determine Disclosable Pecuniary Interest (DPI) dispensations and report details of all dispensations received, and the decision on them, to the next available Council meeting;
- Convene a meeting of the Council if a casual vacancy occurs in the office of the Chair;
- Take steps to fill a casual vacancy in the office of Councillor
- Sign notices or other documents on behalf of the Council;
- Receive, retain, and dispose of plans, notices, records, and documents in accordance with the document retention policy and the law;
- Certify copies of byelaws made by the Council;

## **6. Administrative Matters**

In addition the CEO is authorised to undertake the day to day administration of the Council to include:

- Calling extra meetings of the Council, or any committee, or sub-committee, as necessary, having consulted with the appropriate Chair; except those meetings called in accordance with Standing Orders by the Mayor or Members;
- Issuing press releases and statements to the press or on social media on the Council's known policies,
- Making arrangements for the maintenance of the office IT system in conjunction with the Deputy CEO ;

- Responding to requests for information under the Freedom of Information Act 2000 and the Data Protection Act 1998 (or similar Acts and Regulations);
- Acknowledging and handling all complaints regarding the Council (except where the complaint relates to the CEO);
- Paying the cost of holding an election or by-election, including the cost of polling cards, for the post(s) of town councillor as determined by and charged for by the electoral officer of EDDC
- Making arrangements for the routine maintenance of the Council's Offices and property;
- To manage the Council's facilities, property and assets;
- To act on behalf of the Council as a designated officer with respect to complying with legislation;
- To instigate and authorise the repair and maintenance of Council equipment, property or assets so long as the Town Council's Financial Regulations are adhered to and the cost does not exceed the current budget;
- To purchase equipment and supplies to be used by Staff or contractors to repair or maintain Town Council equipment, property or assets;
- To dispose of Council equipment or assets with an estimated worth of less than £500.
- Authorising routine recurring expenditure within the agreed budget (e.g. broadband, rent)
- Determining Citizen and Business of the Year Awards having consulted the Mayor or Deputy Mayor of the Council
- Dealing with staffing matters as set out in the terms of reference for the Human Resources Management Committee, the Disciplinary Procedure, and the Grievance Procedure.
- Determine whether any matters should be referred to the Police, the Monitoring Officer, or other enforcement body

## **7. Urgent Matters:**

The CEO is specifically authorised:

7.1 In the event of any emergency involving the Council's property, premises, or facilities (e.g. damaged bench, leaking pipes, wind damage to roof, flooding, broken equipment) to order any works necessary to prevent any further material loss to the

Council in accordance with the sums specified in the Council's Financial Regulations;

7.2 In the event of any safety critical occurrence or situation (e.g. dangerous branches and or trees, collapsed footpaths, broken play equipment, breached fencing allowing access into an unsafe area) to commit the Council to expenditure necessary in order to carry out remedial action, or isolate the area, in order to reduce the likelihood of anyone being harmed in accordance with the sums specified in the Council's Financial Regulations;

7.3 To commit the Council to expenditure for costs in accordance with the sums specified in the Council's Financial Regulations (but if no sum is specified for a sum not exceeding £1000) incidental to ongoing projects already authorised by Council, or other ongoing work, or minor repairs to facilities, subject to the CEO being confident that the Members, in all probability, would have approved such an expenditure if the facts had been brought to their attention before a commitment to expend the money had been made (e.g. hire of equipment, purchase of fuel, servicing of vehicle or machinery, repair to vehicle or machinery, purchase of wood or fencing materials or gates, purchase of topsoil, plants and shrubs, hire of contractor to offer specialised assistance or to carry out specialised repairs, engaging tradesmen to carry out minor repairs etc.).

7.4 In the event of a situation arising which is not covered in this section, and which requires an urgent decision to take any action and/or which may commit the Council to any expenditure, the CEO (or in her absence the Deputy CEO) shall consult the Mayor and Deputy Mayor but in the absence of the Mayor and Deputy Mayor then the CEO shall consult with any one councillor (and in the event of proposed financial expenditure only, then the Chairman of the Finance Committee shall also be consulted together with the aforementioned members) and with the concurrence of those members shall have delegated power to act on behalf of the Council in respect of the particular matter then under consideration.

## **8. Planning Applications**

8.1 All planning applications will be discussed by the Council's Planning Committee at its meetings.

8.2 Members will be notified of each planning application as received by the Council but it will be their individual responsibility to consider the details of each by accessing such on-line. If a Member does not have on-line facilities at home or wishes to access such from the offices, this facility is provided at the Council Offices.

8.3 The Council will have due regard to the National Planning Policy Framework and all material considerations when making appropriate comments and recommendations to the Local Planning Authority.

8.4 In exceptional circumstances, where it is not possible to convene a Planning Committee Meeting of the Council all planning applications will be emailed to Councillors within 72 hours of receipt by the Deputy CEO (‘DCEO’) or in her absence the CEO. The DCEO will also post the planning applications on the parish website and notice boards to make residents aware of the application(s) and ask for comments to be emailed to [admin@otterystmary-tc.gov.uk](mailto:admin@otterystmary-tc.gov.uk) and/or the Local Planning Authority (‘LPA’) direct. The DCEO will then forward these comments to Councillors for consideration. Councillors will then formulate responses to be submitted to the DCEO. On receipt of these comments the Mayor (or Deputy Mayor in the Mayor’s absence) and the Chair of Planning will submit an agreed response to councillors. Subject to no further comments being received, the final response will then be sent to the LPA by the DCEO within the deadline date for the submission of comments.

## **9. The Openness of Local Government Bodies Regulations 2014**

Whilst acknowledging the requirement for officers of the Council to produce a written report relating to delegated decisions made under section 7 (2) (b) (i) and (ii), the Council confirms that with regard to paragraph (iii) the word ‘materially’ should be construed in such a manner as to confer upon the CEO the authority to commit the Council to expenditure, as outlined within these Delegated Powers, and, as long as the expenditure is accommodated within the Council’s agreed budget headings for the year, such decisions do not have to be recorded for the purposes of this Act as the expenditure is considered as not having a material effect on the finances of the Council