Wirksworth Town Council

Scheme of Delegation

Policy – Adopted 17/10/22

Minute C022/96

Revised 21/09/26

Minute C26/74

This document will be reviewed annually
at the Annual Town Council Meeting

Introduction

The powers and duties set out in this scheme are delegated to Town Clerk of the Council and Councillors (Committees). The Town Clerk may delegate these duties and powers to other Officers within the Council.
The Town Clerk is also the Council's Responsible Financial Officer and the Proper Officer and responsible for the management of the organisation.

Extent of Delegation to Town Clerk

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

1.1 The Town Clerk will exercise these powers in accordance with:

i. approved budgets
ii. the Council's Financial Regulations
iii. the Council's Contract Procedure Rules
iv. the Council's Procurement Strategy
v. the Council's Policy Framework and other adopted policies of the Council
vi. all statutory common law and contractual requirements

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

1.3 Provided that such authorisation is not prohibited by statute the Town Clerk to whom a power, duty or function is delegated may authorise another Officer to exercise that power, duty or function, subject to:

i. the Officer authorised by the Town Clerk acting in the name of the Town Clerk
ii. such authorisation not being prohibited by statute.

1.4 A delegation to a subordinate Officer shall not prevent the Town Clerk from exercising the same power or duty at the same time.

General Matters

2. The Town Clerk is authorised to:

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

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

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

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

2.5 Alter the date or time of a Council, Committee, Working Party, or Task Group meeting after consultation with the Mayor of the Council, or Chair of the Committee, Working Party or Task Group detailing the need for the change and about convenient alternative dates and times.

2.6 Decide arrangements for the closure of the Council offices in the Christmas/New Year period.

2.7 Deal with day-to-day matters relating to the use of office accommodation space.

2.8 Respond to enquiries (face to face, telephone and email) on behalf of the Town Council, where an existing policy or precedent has already been established by the Council.

2.9. Manage all the Council's current services including the following:

- Public Conveniences
- Markets
- Occasional Hire of Buildings/Open Spaces
- Lease of Properties
- Provision of street furniture (Benches, Bus Shelters, Notice Boards etc..)
- Public Spaces (e.g. Stoney Wood, Playgrounds)
- Services agreed under contract for other authorities and bodies
- Website

2.10. To act as the Council's designated Officer for the purposes of the Freedom of Information Act 2000 and General Data Protection Regulations.

2.11. To apply for planning consent for the carrying out of development by the Council.

2.12. To respond to consultations on planning applications and licensing applications subject to the comments by the Planning Consultative Group.

2.14. To respond to complaints made under the Council's complaints procedure.

2.15. To manage, monitor and review the Council's internal control procedures.

Financial Matters

3. The Town Clerk is authorised to:

3.1. Be the Responsible Financial Officer for the purposes of Section 151 of the Local Government Act 1972.

3.2. Operate the Council's banking arrangements including arranging overdrafts.

3.3. Incur expenditure up to a maximum of £5000 on any item for which provision is made in the appropriate revenue budget, provided that any action taken complies with any legislative provisions and the requirements of the Council's Constitution and Financial Regulations.

3.4. Pay all accounts properly incurred.

3.5. Pay all subscriptions to organisations to which the Council belongs.

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

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

3.8. Incur expenditure on revenue items within the approved estimates and budgets under their control.

3.9. Incur expenditure on capital schemes within the Council's approved capital Programme.

3.10. Use the Repairs and Maintenance Budgets for the maintenance, replacement or repair of existing buildings, land, plant, vehicles, equipment, and other assets.

3.11. Enter into leasing and contract hire agreements for the acquisition of vehicles, machinery and equipment on such terms as are considered appropriate (where a budget exists).

3.12. Accept quotations or tenders for work supplies or services (where tenders are required by the Council's Financial Regulations), subject to:
a) the cost not exceeding the amount approved estimate
b) the tender offer best value to the Council according to the criteria set out in the tender documentation
c) all the requirements of the Council's Financial Regulations being complied with.

3.13. Compile, approve or vary lists of approved contractors subject to the requirements of the Council's Financial Regulations.

3.14. Authorise action for the recovery of debts.

3.15 Write-off debts up to the level set by the Council.

3.16 Maintain a Register of Assets and Inventory of Equipment.

3.17 Determine the Town Council's insurance requirements on the Council's behalf.

3.18 Make all necessary arrangements for the Council's insurances.

Staffing Matters

4. The Town Clerk and Deputy Town Clerk are given delegated powers to manage the Council staff in accordance with the Council's policies, procedures, and budget, including:

4.1 Interview of Applicants

4.2 Appointment of employees (except Town Clerk, Responsible Finance Officer and Deputy, unless authorised by the Council)

4.3. Employment of temporary employees.

4.4 Preparation of the job description and person specification, placing of the advertisement and short-listing of applicants.

4.5 Management of staff performance.

4.6 Control of discipline and performance, including the power of suspension and dismissal.

4.7 Exercise of disciplinary and grievance procedures in accordance with council procedures.

4.8 Determine approved duties for the payment of travel and subsistence expenses to Members and Officers where they represent the Council outside of the Town Council area.

4.9 Approve salary increments for those staff on banded contracts (subject to staff performance review).

4.10 Approve payment of overtime.

4.11 Agree minor variations to the condition of employment.

4.12 Approve changes to the establishment structure.

4.13 Implement and monitor the arrangements for annual leave, flexi time, sickness absence, maternity, and paternity leave in accordance with the Council's policies.

4.14 Authorise training in line with the Council's policies.

4.15. Authorise the provision of uniforms, protective clothing and equipment.

4.16. Approve payment of claims from employees for expenses and compensation for loss of or damage to personal property (excluding Town Clerk).

4.19. Terminate employment during probationary period.

4.20. Commission legal and professional advice on staffing matters.

Property Matters

5. The Town Clerk is given authority to manage the land and property of the Council including:

5.1. Agreeing the terms of any lease, licence, conveyance, or transfer.

5.2. The granting or refusal of the Council's consent under the terms of any lease.

5.3. Variations of restrictive covenants of a routine nature.

5.5. Initiating legal action or proceedings against unauthorised encampments or encroachments on Council land.

5.6. Directing the custody of Town Council property and documents in accordance with the provisions of Local Government Act 1972 S226.

5.7. Exercising responsibility for the safe custody and maintenance of the civic regalia.

Market Matters

6. The Town Clerk is given the authority to manage the markets operated by the Town Council including:

6.1 The stall layout and allocation of space to stall holders

6.2 The application and revision of the terms and conditions for stall holders (excluding the tariff for stalls which will be determined by the council as part of the budgetary process).

6.3 Application of the pricing, including concessions for stall holders.

6.4 Exclusion of Stall Holders breaching Terms and Conditions or inappropriate/abusive behaviour towards members of the public or staff.

Occasional Lettings

7. The Town Clerk is given the authority to manage the occasional hire of Town Council Buildings and spaces including:

7.1 Operation of the bookings system to manage the layout and allocation of space to room users.

7.2 The application and revision of the terms and condition for room users (excluding the tariff for room use which will be determined by the council as part of the budgetary process).

7.3 Application of the pricing including concessions for room users.

7.4 Exclusion of hirers for breaching Terms and Conditions or inappropriate/abusive behaviour towards members of the public or staff.

Procedural

The Town Clerk can:
8. Authorise Officers to exercise statutory powers of entry and inspection for the purposes of any function under their control.

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

8.2. Appoint consultants and other professionals to carry out any function and provide any service under their control.

Health and Safety at Work Act 1974

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

Legal Proceedings

10. The Town Clerk is authorised to:

10.1 Take and discontinue legal proceedings in any Court or at any Tribunal.

10.2 Take Counsel's advice or instruct Counsel to represent the Council.

10.3 Seek injunctions and commence proceedings for the purposes of:
- enforcement in accordance with the Council's policies
- recovering money due to the Council
- recovering or otherwise preserving possession of the Council's land or property
- defending the interests of the Council

- appealing against a decision affecting the interests of the Council and responding to appeals against action taken by the Council.

10.4. Negotiate and settle the terms of documents to give effect to a decision of the Council or any of the Committees or of any Officer acting under delegated powers.

10.5 Apply the affixing of the Common Seal of the Council to documents in accordance with Standing Orders.

10.6 Be the responsible Officer for the co-ordination and operation of the legal requirements under the General Data Protection Regulations and the Freedom of Information Act.

10.7 Serve Requisitions for Information.

10.8 Prepare a draft budget for consideration by the Council.

10.9 Prepare the final accounts for each financial year.

Urgency

11. The Town Clerk is authorised to act on behalf of the Council in cases of urgency or emergency. Any such action is to be reported to the next meeting of the Council or relevant Committee. The Mayor, Deputy Mayor and Chair of Committees are to be consulted where possible before such action is taken.

Delegation to Committees and Working Parties

12. Committees may be delegated powers to act within their Terms of Reference. This means that on all matters not reserved for consideration by another Committee, or by the full Council, where a Committee is delegated powers it can RESOLVE and thereafter action can normally be taken by officers, however certain matters cannot legally be delegated and others, such as deciding major policy are reserved by the Council to itself. On such matters, committees can only RECOMMEND a course of action and, in these cases, the Town Council officers cannot normally carry out the instructions of the committees until the recommendation has been approved by the Council.

12.1 The recommendations of Committees will be referred to full Council for agreement where recommendations maybe agreed, declined or alternatively, may be referred back to the committee for further discussion. [Arnold Baker on Local Council Administration Ed11 S7.39 states “discussion on the decisions previously taken should not be permitted”]

12.2 Should members wish to raise any question concerning the exercise of delegated or other powers, then they should contact the appropriate committee chairman or the Clerk to the Council, and if necessary, the matter can be raised subsequently at committee.

12.3 Members are entitled to attend all committees and sub-committees whether or not they are members of the committee, although no voting rights ~~or right to participate in discussions or proceedings~~ are granted.

Applicable to all Committees of the Council.

13.1 The Council has delegated to every committee of the Council full powers to act in all matters covered by the committee's Terms of Reference subject to:

i. the provisions of any Standing Order or Financial Regulation for the time being in force, except where such Order or Regulation has been specifically waived by resolution of the Council.
ii. prior Council approval of annual capital and revenue estimates
iii. any scheme requiring application for consent to borrow having first been approved by Council, and loan sanction secured.
iv. when matters of major policy[14] are involved, the existence of a policy approved by the Council. In the absence of such policy, Committees and Sub-committees may consider the matter and make recommendations to the Council.
v. prior Council approval to recommendations for the allocation of duties, powers, and guidelines to committees.

13.2 The exercise by Committees of the above powers shall be without derogation to the powers of the Council to call for a report on any committee decision.

13.3 Every committee shall have power to authorise an officer, after consultation with the Chairman of the Committee, to take decisions on specific urgent matters falling within its own Terms of Reference as it sees fit.

13.4 Notwithstanding the powers delegated to committees, the Council retain the right to exercise such powers when necessary.

14. Major policy will arise either:

14.1 on matters of major importance which have not previously been before the Council; or

14.2 matters which have arisen in other Committees or Sub-committees but which cannot be resolved by them in the absence of settled Council policy; or

14.3 in cases of doubt where a major policy is involved, the Chairman of the Council or the Chairman of any other Committee or Sub-committee, or in their absence the appropriate Vice-Chairman may, before a decision is taken by the committee or sub-committee, state that a matter of major policy is involved.

Matters not delegated to Committees

15. The following matters are reserved for the full Council and may not be delegated to a committee:

15.1 the adoption of Standing Orders and Financial Regulation.
15.2 the appointment of permanent representatives to outside bodies.
15.3 the making of bye-laws.
15.4 the dismissal of officers.
15.5 the setting of the annual budget and precept.
15.6 the approval of final accounts and statutory return.
15.7 the noting the report of the Internal Auditor.

Terms of reference and delegated authority – Environment and Town Committee

16.1 Membership shall be a minimum of 5 members of the Council (inc Mayor and deputy)

16.2 The quorum of the committee shall be three members.

16.3 An officer of the Council shall attend the meeting

16.4 Meetings shall be held on the first Monday of each Month

16.5 Members will participate in the council's internal checks process.

16.6 The key responsibilities of the committee are to:

i. All Planning Matters (with delegated authority* to respond on behalf of the council)
ii. The development of the Town and its surroundings (including the provision of: Grit Bins, Benches, Bus Shelters, Planters, Footpaths).
iii. Matters related to the Neighbourhood Plan.

16.7 Operational responsibilities include:

i) Contributing to the overall budget proposals of the Council in respect to planned/anticipated expenditure for matters related to its key responsibilities.
ii) Recommendation for actions and expenditure where an existing budget line exists and sufficient budget is available.

Terms of reference and delegated authority – Finance & Buildings and Personnel Committee

17.1 Membership shall be a minimum of 5 members of the Council (inc Mayor and deputy)

17.2 The quorum of the committee shall be three members.

17.3 An officer of the Council shall attend the meeting

17.4 Meetings shall be held on the second Monday of each Month

17.5 Members will participate in the council's internal checks process.

17.6 The key responsibilities of the committee are to:

i) All Financial Matters.
ii) The maintenance and contents of the buildings and property holdings.
iii) Supervision, welfare and employment of staff(in conjunction with the Town Clerk).
iv) Approval of beneficiaries & electronic payments.

17.7 Operational responsibilities include:

i) considering the annual budget proposals from the Town Clerk and other committees and to agree an overall budget, reserves policy and precept requirement, including recommendations for grants and submitting this to Full Council for approval.
ii) monitoring the income and expenditure of the Town council and its committees throughout the year, ensuring that the amounts concerned are consistent with

approved budgets and that any income shortfalls or expenditure in excess of budget(s) is properly authorised and will not adversely affect the council's overall financial position