

# **Ludgvan Parish Council**

## **Scheme of Delegation**

*Adopted by Council – 12 July 2023*

### **1. Introduction**

- 1.1 This Scheme of Delegation authorises the Clerk (as Proper Officer and Responsible Finance Officer), Standing Committees and Sub-Committees to act with delegated authority in specific circumstances.

### **2. Delegation – Limitations**

- 2.1 The Clerk, Council, Committees and Sub-Committees shall, at all times, act in accordance with the Council's Standing Orders, Financial Regulations and this Scheme of Delegation and, where applicable, any other rules, regulations, schemes, statutes, by-laws or orders made and with any directions given by the Council from time to time.
- 2.2 The Openness of Local Government Bodies Regulations 2014 (2014 SI No. 2095) requires a written record to be kept of certain decisions made by an officer of a parish council acting under delegated powers. The Act should be referred to by council and the Proper Officer whenever any of the following is enacted to ensure a proper record of such a delegation is kept.

## **Delegation of Powers**

### **3. Council**

- 3.1 The following are reserved matters for the Council to decide. (The appropriate committee/s may make recommendations to Council for consideration on any of these matters.)
- a) Appointment of the Clerk/RFO following a recommendation from the Staffing Committee
  - b) Setting the Precept
  - c) Borrowing money
  - d) Appointment to a Committee
  - e) Approval of the Council's Annual Accounts and the Annual Return
  - f) Making, amending or revoking Standing Orders, Financial Regulations, Terms of Reference, or this Scheme of Delegation
  - g) Matters relating to the Council's Code of Conduct (eg decisions on sanctions, following recommendation by the Monitoring Officer)
  - h) Approval of Dispensations (for a Member's non-attendance due to health or personal reasons)
  - i) Approval of Dispensations (for a Member to participate in an agenda item where an interest has been declared)
  - j) Making, amending or revoking bylaws
  - k) Making of orders under any statutory powers
  - l) Matters of principle or policy
  - m) Approval of calendar of meetings
  - n) Appointment or nomination by the Council of persons to fill vacancies on outside bodies
  - o) Agreement to take on new, including devolved, services
  - p) Prosecution or defence in a court of law

- q) Nomination or appointment of representatives of the Council at any inquiry on matters affecting the Parish, excluding those matters specific to a committee
- r) Confirming eligibility to exercise the General Power of Competence

#### **4. Standing Committees**

- 4.1 Apart from those matters which may only be dealt with by the Council, other matters may be delegated to Standing Committees by the council in accordance with the Terms of Reference agreed for each committee.
- 4.2 Where a matter has been delegated to a Standing Committee, then – so far as is legally permissible – the decisions and actions of a Standing Committee shall be deemed the decisions and actions of the Council.
- 4.3 Where not delegated specifically to a Standing Committee, decisions of a Standing Committee shall be subject to confirmation by the Council.
- 4.4 Decisions and actions of Standing Committees are subject to the Council's Standing Orders and Financial Regulations, unless otherwise determined by the Council.
- 4.5 The Council may at any time (without prejudice to actions already taken) revoke any power delegated to a Committee.
- 4.6 Any Committee may refer specific matters to the Council for a final decision if it so wishes.

**Note:** The deliberations of the Staffing Committee in cases of grievance, disciplinary and capability hearing will be kept confidential. This ensures that an appeal against a Staffing Committee decision will be heard by elected members with no prior knowledge of the case. This is a legal and ethical necessity.

#### **5. Sub Committees**

- 5.1 Every Committee may appoint Sub-Committees whose terms of reference and members shall be determined by the parent Committee. The Chair of the Committee shall be a member of every Sub-Committee appointed by it unless they state that they do not wish to serve. A Committee may delegate to a Sub-Committee only matters which it itself has the delegated power to decide, and must specify whether the Sub-Committee is delegated to decide or to make report to the parent Committee.

#### **6. Working Groups**

- 6.1 Working Groups may be formed by resolution of the Council or a Committee at any time. The objectives and scope of a Working Group will be decided upon at the time it is formed by means of a Minute detailing the Terms of Reference. Each Working Group will report back with recommendations to the Council or Committee that formed it. The Working Group will be disbanded by resolution of the Council or the parent Committee to which it reports once it has completed its agreed objectives, including upon the recommendation of the Working Group itself. Working Groups may not be delegated any decision making powers.

#### **7. Individual Councillors**

- 7.1 There are no circumstances where an individual Member can issue an instruction to the Clerk, any other employee or a Contractor, make a decision on behalf of the Council, or authorise any expenditure. Therefore, no individual Member has any delegated authority. (Section 101 of the Local Government Act 1972 and relevant case law).

## **8. Responsible Finance Officer**

8.1 The Clerk shall be the Responsible Finance Officer to the Council and shall be responsible for the Council's accounting procedures, in accordance with the Accounts and Audit Regulations and the Council's Financial Regulations in force at any given time. The Clerk may obtain advice and guidance from external professionals (which may bear a cost) to ensure this is achieved effectively.

8.2 The Clerk is authorised to:

- a) Operate the Council's banking arrangements
- b) Arrange internal and external audits of the Council at least annually, and as required.
- c) Make all necessary arrangements for the Council's insurance
- d) Prepare a draft budget for consideration by the Council
- e) Prepare the final accounts for each financial year.

## **9. Proper Officer**

9.1 Delegated actions of the Clerk to the Council 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.

9.2 The Clerk is designated and authorised to act as Proper Officer for the purposes of all relevant sections of the Local Government Act 1972 and any other statute requiring the designation of a Proper Officer. The Clerk is authorised to:

- a) Receive declarations of acceptance of office
- b) Receive and record notices from Councillors disclosing personal interests
- c) Receive and retain plans and documents
- d) Sign notices and other documents on behalf of the Council
- e) Receive copies of bylaws made by the Unitary Council
- f) Certify bylaws made by the Council
- g) Sign and issue summons to attend meetings of the Council
- h) Seal documents, deeds, contracts and agreements following a resolution to do so from Council or one of its committees
- i) Keep proper records of meetings of the council and its standing committees
- j) Receive from Cornwall Council's Monitoring Officer documents relating to complaints received under the Councillor's Code of Conduct and take appropriate actions.

9.3 The Clerk has delegated authority to undertake the following matters on behalf of the Council:

- a) Day to day administration of services, resources and assets, together with routine inspection, control and compliance
- b) To respond to any correspondence, requiring or requesting information or relating to previous decisions of the Council, but not correspondence requiring an opinion to be taken by the Council or one of its committees.
- c) Authorise routine recurring expenditure within the agreed budget.
- d) Emergency expenditure up to £500 outside of the agreed budget (Financial Regulations 4.5)
- e) Expenditure on works up to a maximum of £500 Financial Regulations 4.1)

- f) Respond to planning applications when an extension of time is not granted, following consultation with Councillors by email where possible.
- g) Take necessary action to recover any debt owing or other obligation due to the Council
- h) Seek specialist (eg legal) advice if needed to inform urgent action or report to Council/Committee
- i) Manage the council's services.

## **10. Urgent matters**

- 10.1 In the event of any matter arising that requires an urgent decision, the Clerk will consult with the Chair (or if more appropriate the Chair of the relevant committee) before acting on behalf of the Council in respect of that matter. If the Chair is not available, then the Vice-Chair will be consulted, if possible. If neither the Chair nor VC can be contacted, the Clerk will use knowledge of the situation and the council's priorities and resources and decide on the matter.
- 10.2 In an emergency the Clerk is empowered to carry out any function of the Council other than matters limited to Council.
- 10.3 To incur expenditure on behalf of the Council, which is necessary to carry out any repair, replacement or other work which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure, subject to a limit of £ XXXX
- 10.4 Any action(s) taken in the above circumstances will be contemporaneously recorded

## **11. Emergency Scheme of Delegation**

- 11.1 During a period of pandemic or similar national emergency in which it is deemed inappropriate or is unlawful for the Council to meet, the interests of the community and council business continuity must be protected.
- 11.2 In such circumstances, the Clerk in consultation with the Chair and Vice-Chair of the Council, and where possible informed by consultation with members of the Council, may make decisions on the council's behalf and commit up to £XXXXXX to support each decision.

This Policy was adopted by Council on 12 July 2023 and will be reviewed each year.