



## **SCHEME OF DELEGATION & COMMITTEE TERMS OF REFERENCE.**

Agreed at Full Council on Monday 7<sup>th</sup> December 2020  
Reviewed at Full Council on Monday 1<sup>st</sup> November 2021

This Scheme of Delegation authorises Standing Committees and Sub-Committees of the Council, the Town Clerk / Proper Officer, the Responsible Financial Officer, Administrator, the Properties Manager and the Town Groundsman to act with delegated authority in the specific circumstances detailed. The scheme should be read in conjunction with the Council's Standing Orders, Financial Regulations, and other relevant documents.

### **SCHEME OF DELEGATION**

#### **1. PRINCIPLES OF DELEGATION**

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.

#### **2. DELEGATION TO OFFICERS**

The Town Clerk shall be the Proper Officer of the Council and as such is specifically authorised to:

- a. To receive declarations of acceptance of office
- b. To receive and record notices disclosing personal and prejudicial interests
- c. To receive and retain plans and documents
- d. To sign notices or other documents on behalf of the Council
- e. To sign summonses to attend meetings of the Council

In addition, the Town Clerk has the delegated authority to undertake the following matters on behalf of the Council to ensure the smooth running of all Council operations, this must be done in conjunction with the Standing Orders, Financial Regulations and this Scheme of Delegation.

- f. The day to day administration and management of all Council owned assets Addendum 1 and includes day to day management of the weekly markets, leases and licenses for commercial properties, rental agreements for residential properties and carrying out annual inspections.
- g. Day to day supervision and management of all staff employed by the Council
- h. Authorisation of routine expenditure within the agreed budget and up to the limits as set out in the Financial Regulations.

In an emergency the Town Clerk is empowered to carry out any function of the Council:

- i. where it is impractical to convene a meeting of the Council or a Standing Committee
- j. where there is significant cost to the council of loss of income resulting from lack of immediate action
- k. where the council's property or staff or persons in its care or for whom it has a responsibility would otherwise be placed in serious risk of suffering harm/damage.
- l. Where an emergency or disaster involving destruction or danger to life or property occurs or is imminent or there are reasonable grounds for apprehending such an emergency or disaster and such action is calculated to avert, alleviate or eradicate the effects or potential effects of the event.

In the absence of the Town Clerk (or with their express permission) authority should be delegated to the Properties Manager and/or the Town Groundsman (subject to the required action) who can confer where necessary with the Administrator but must also ensure there is adequate budget via the Responsible Financial Officer.

Subject to urgent items the following matters shall be referred to the relevant Committee or Full Council, where appropriate.

Any matter which:

- m. requires new policy or alteration to an existing policy
- n. involves expenditure or a reduction in income, for which there is no sufficient budgetary provision,
- o. in the opinion of the Town Clerk, cannot in law or in accordance with the Standing Orders be decided by an Officer,
- p. upon which a committee has requested a report,
- q. a member has requested an item to be put on an agenda under Standing Orders,
- r. in the opinion of the officer concerned, should be determined by a Committee or Full Council.

### **3. RESPONSIBLE FINANCIAL OFFICER**

The Responsible Financial Officer (RFO) to the Council shall be accountable for the Town Council's administration of its financial affairs. The RFO will exercise good accounting procedures, in accordance with the Accounts and Audit Regulations in force at any given time.

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

- a. To liaise with the Internal and External Auditors
- b. To sign the Annual Governance and Accountability Return (AGAR)
- c. To prepare Council budgets in conjunction with the Finance & General Purposes Committee (F&GP).
- d. To manage the Councils banking and provide updates to Council on status or any changes.

It is the Council's responsibility in law to ensure its financial management is adequate and effective, and that the Council has a sound system of internal control, which balances the requirements of daily operation with the management of financial risk.

#### **4. FULL COUNCIL MEETINGS**

Full Council meetings are scheduled to take place on the first Monday of every month. If any amendment to this standing schedule is required, the decision will be made by the Clerk in consultation with the Mayor, and Councillors given as much notice as possible, and not less than seven days prior to the scheduled meeting. The minutes from the previous Full Council meeting and all Committee meetings will be circulated along with the agenda for the next Full Council meeting, these will then be approved as a true record.

Public notice of all meetings of the Council and standing committees shall be given in accordance with Schedule 12, Paragraph 10(2) of the Local Government Act 1972. The quorum for Full Council meetings is as set out in the Council's Standing Orders.

#### **5. COUNCIL FUNCTIONS**

Only the Full Council may exercise the following decisions but can take any recommendations from the appropriate committee(s) for the Council's consideration.

- a. Approval of the annual budget
- b. Setting of the Precept
- c. Approval of the Annual Accounts and the Annual Return including the Governance Statement
- d. Adoption of the Council's Code of Conduct
- e. Confirmation (by resolution) that the Council has satisfied the statutory criteria to exercise the General Power of Competence.
- f. Arranging loans and other financial agreements.
- g. Amending or Revoking existing Standing Orders, Financial Regulations and including this Scheme of Delegation
- h. Nomination and appointment of all members onto Standing Committees
- i. Nomination and appointment of the Mayor and Deputy Mayor
- j. Nomination and appointment of Chairs and Vice Chairs to all Standing Committees
- k. Nomination and appointment of representatives of the Council to any other authority, organisation, or body.
- l. Authorising expenditure outside of a committee's remit.
- m. Any proposed new undertakings including leases / licenses.
- n. Arranging for representation, prosecution or defense in a court of law

#### **6. STANDING COMMITTEES**

Standing Committees have delegated powers to make decisions specifically delegated to them. These powers must be exercised in accordance with the law, the Council's Standing Orders, Financial Regulations, and any approved policies and

budget, it is important to remember that this delegation does not prevent the council from continuing to exercise those decisions and

Dartmouth Town Council currently has 4 Standing Committees:

- a. Finance & General Purposes committee
- b. Council Assets committee
- c. Planning committee
- d. Staffing committee

Council may, at any time following a resolution, revoke any or all delegated authority. Committees by majority vote, may decide not to exercise delegated powers, and instead make recommendation to Council. Similarly, where a committee has not been granted delegated power, it may make a recommendation to Full Council.

## **7. SUB-COMMITTEES**

Sub-Committees will have no delegated powers and will instead make recommendations to their parent committee or Full Council. Dartmouth Town Council currently has no sub committees.

## **8. WORKING GROUPS**

Council and all standing committees have the power to create and appoint members to informal working groups. By law, these can have no delegated executive power and must report their findings to the body which created them. Working Groups are 'task and finish' groups. They should be established with a clear achievable goal laid out and be dismantled once the goal has been achieved.

## **9. COMMITTEE STRUCTURE**

The size and membership of all Standing Committees are determined each year at the Annual Meeting of the Town Council at which time a Chairperson and a Vice Chairperson is elected.

In the event of the resignation, death, or disqualification of a Councillor during the year any vacancy on a Committee will be filled at the next meeting of the Full Council.

In the event of the resignation, death or disqualification of a Chairperson and/or Vice Chairperson during the year a new Chairperson and/or Vice Chairperson shall be elected at the next meeting of the Full Council.

In the event of the Chairperson being unable to attend a committee meeting, the Vice Chairperson would assume the role of Chairperson for the duration of the meeting. In the absence of both Chairperson and Vice Chairperson, an existing committee member may be voted Chairperson for the duration of the meeting as the first agenda item.

The Mayor and Deputy Mayor are members of all committees except the Staffing Committee and form part of the committee membership.

The Mayor and Deputy Mayor can be nominated as Chairperson and/or Vice Chairperson of a standing committee or a sub-committee.

The Quorum for all committees is as set out in the Council's Standing Orders.

**COMMITTEE CONDITIONS:**

- a. The Council's Standing Orders will apply to all meetings of the committees and sub-committees
- b. Unless the Council directs otherwise, the committees may arrange to devolve any of its functions to a sub-committee or to an Officer(s) of the Council.
- c. All meetings, excluding the Staffing Committee, shall be open to the public, unless the committee resolves to exclude Press & Public for specific agenda items.
- d. All members of the Council will receive an agenda and supporting papers.
- e. Notice of meetings will be posted in accordance with all meetings of the Council.

**COMMITTEE RESTRICTIONS:**

- a. Only councillors who are a member of that committee may vote on agenda items.
- b. Councillors who are not a member of the committee may attend committee meetings but will only be invited to speak on an agenda item, with the express permission of the Chairperson.
- c. Councillors who are not a member of the committee are subject to the same rules as committee members regarding confidentiality and the requirements of the Code of Conduct.
- d. Councillors who are not a member of the committee may attend in their capacity as a Councillor, but will have no more rights at committee meetings than members of the public, and may only remain in the confidential section of a meeting with the express permission of the Chairperson.

**DELEGATED POWERS:**

During meetings, committee members will be advised by the Clerk (or nominated officer) whether or not an agenda item under discussion is within the committee's (or sub-committee's) delegated powers.

If the agenda item is not within the committees delegated powers then the minutes will show the decision as RECOMMENDED, and the decision will then be brought to the next Full Council meeting by the Chairperson of the committee who will then seek approval and adoption of the committee's minutes. In any case where a committee or sub-committee Chairperson and Vice Chairperson are either unsure whether or not any matter falls within delegated powers, or whether or not any matter should be determined by them, they should refer that matter to the next highest level of decision. A power delegated does not always have to be exercised.

**COMMITTEE TERMS OF REFERENCE**

**10. THE FINANCE AND GENERAL PURPOSES COMMITTEE (F&GP)**

**Membership & Meetings**

This committee can include all 16 members, the Mayor and Deputy Mayor are on this committee by default.

The committee will meet every other month, additional meetings may be called by the Chairperson and the Clerk.

F&GP has delegated powers to act on behalf of the Full Council to make decisions on matters concerning the Council's finances, subject to available budget and to a limit per item of £10,000. The committee may make recommendation to Full Council for spending above this limit.

### **Scope**

F&GP shall have the following remit:

- a. To review and monitor the Council's finances and budget as a whole.
- b. To approving grant applications, in keeping with the council's established budget and grants policy.
- c. To approve variations, overspends and virements within budget in accordance with Financial regulations
- d. To make recommendations to Council in conjunction with the Clerk and/or the RFO on budget and precept requirements
- e. To advise on the financial implication(s) and potential risk(s) of proposed polices, or development of existing policies
- f. To advise Council on borrowing policy & investment
- g. To monitor the performance of all funds invested on a regular basis.
- h. To review, in consultation with the Council Assets committee, all tolls, rents, hire charges and changes in regulations and/or terms and conditions as they relate to Council Assets
- i. To consider reports on any outstanding debts due, and to undertake recovery or to write off the debts
- j. To review Financial Regulations and the effectiveness of the council's internal controls annually, and present both to Council for approval.
- k. To develop, review and approve general and financial policies and strategies relating to financial and governance, as well as in other areas which do not fall under the remit of either the Council Assets, Planning or Staffing committees. Where necessary make recommendations to the Full Council, and will throughout, ensure compliance with statutory requirements and best practice.
- l. To consider any and all matters not included in the Terms of Reference of other committees.

## **11. COUNCIL ASSETS COMMITTEE**

### **Membership & Meetings**

This committee can include all 16 members, the Mayor and Deputy Mayor are on this committee by default.

The committee will meet every other month, additional meetings may be called by the Chairperson and the Clerk.

The Council Assets committee has delegated powers to act on behalf of the Full Council to make decisions on any matters concerning the Town Council's assets, including all council owned buildings, markets, green spaces, amenity land, recreation areas and overall provision of such areas within the Town. Addendum 1

The Council Assets committee will make decisions on behalf of the Council on all day to day matters concerning Council Assets, subject to available budget and a spending limit on any one item of £10,000. The committee may make recommendation to Full Council for spending above this limit.

### **Scope**

The Council Assets Committee shall have the following remit:

- a. To submit proposals to the Town Council for major redevelopment or improvement of the Council's properties, and implement, respect and oversee Council's decision.
- b. To ensure the administration, management and maintenance of properties and buildings belonging to, or under the control of, the Town Council.
- c. To monitor the administration, provision and maintenance of all open spaces, gardens, amenity areas and children's play areas belonging to, or under the control of, the Town Council.
- d. To ensure the provision and maintenance of essential equipment and material supplies for the above.
- e. The Council Assets Committee may undertake other related functions in partnership with other agencies on matters of mutual interest, such as highways and footpaths, street scene furniture, trees and vegetation.

## **12. PLANNING COMMITTEE**

### **Membership & Meetings**

This committee can include up to 9 members, the Mayor and Deputy Mayor are on this committee by default.

The committee will meet every other month, additional meetings may be called by the Chairperson and the Administrator and/or the Clerk.

The Planning committee has delegated powers to act on behalf of the Full Council to make observations and recommendations on all planning applications or amendments to planning applications and submit those observations to the Planning Authority (South Hams District Council / Devon County Council). The Planning committee may, as required, conduct meetings with residents, developers or planning officers to assist in the formulation of the committee's findings.

### **Scope**

The Planning Committee shall have the following remit:

- a. To formulate local planning policies.
- b. To assist infrastructure planning and Local Development Framework
- c. Conduct consultations or discussions on proposals for major development(s) which could result in changes to the Local Development Plan, Local

Development Framework, Planning Policy Guidance, Conservation Areas, or the Town & Country Planning Act. Findings in this context will usually be considered at Full Council.

- d. The Planning Committee shall have delegated powers to identify and make representations to the relevant authorities any matters considered to be in breach of planning regulations.
- e. Where the Planning Committee objects to or supports an application the Chairperson of the Committee is authorised to attend the relevant planning authority meeting and to speak on behalf of the Town Council.
- f. The Planning Committee shall have delegated powers, through the Town Clerk/Administrator, to issue press statements regarding planning matters on behalf of the Full Council.
- g. The Planning Committee shall have no power to incur expenditure on behalf of the Town Council.

### **13. STAFFING COMMITTEE**

Dartmouth Town Council Staffing Committee will operate in ways similar, but not identical, to a commercial business Human Resources (HR) department. It will refine strategy and policy in matters relating to human resources, and be responsible for employment related decisions on behalf of the Council, where directed.

The Staffing Committee is responsible for effective and professional staff management relating to employees of the Council, and is charged with the responsibility on behalf of the Council with the exercise of an adequate duty of care for all of its employees.

As would be the case in a commercial enterprise, employees of the Council have a right to expect confidentiality in all matters pertaining to their employment. As such, the first item of business on any Staffing Committee agenda will be the exclusion of the public under the Public Bodies (Admission to Meetings) Act 1960. The committee may vote to uphold said act by majority vote.

#### **Membership & Meetings**

The Staffing Committee will consist of a maximum of 6 members which will not include the Mayor or Deputy Mayor

The committee will be a reactive body, and only meet when required, meetings will be called by the Chairperson and the Clerk.

The Staffing Committee has delegated powers to act on behalf of Full Council in relation to the defined terms of reference.

Recommendations outside the Staffing Committee's terms of reference shall be made to the Full Council.

All reports, documents and correspondence relating to the Staffing committee remains confidential within the Council.

## Scope

The Staffing Committee shall have the following remit:

- a. To draft, implement, review, monitor and revise any and all staffing policies and procedures.
- b. To establish and keep under review the staffing structure and requirements, in consultation with the Finance Committee.
- c. To oversee the recruitment and appointment of all staff, excluding the post(s) of Town Clerk and/or the RFO.  
Applicants for all posts will be:
  - i. Short-listed by the Staffing Committee and Town Clerk, with successful short-listed applicants invited for interview.
  - ii. Interviews will be conducted by the Chair of Staffing Committee and the Clerk, who will have the freedom to invite other members to take part in the interview process, at their discretion.
  - iii. A recommendation will be submitted to Staffing Committee for ratification.
- d. To oversee the recruitment and appointment of the Town Clerk:
  - i. Short-listed by the Staffing Committee and the Mayor.
  - ii. Interviews will be conducted by a panel of three members of the Staffing Committee (Chairperson usually included) in addition to the Mayor.
  - iii. The Staffing Committee's recommendation will be submitted to Full Council for ratification.
- e. To oversee the recruitment and appointment of the RFO:
  - i. Short-listed by the Staffing Committee, the Town Clerk, the Chair of F&GP and the Mayor.
  - ii. Interviews will be conducted by a panel of two members of the Staffing Committee (Chairperson usually included), the Town Clerk, the Chair of F&GP and the Mayor.
  - iii. The Staffing Committee's recommendation will be submitted to Full Council for ratification.
- f. To have delegated powers to review job descriptions, promotions and re-grading and to approve changes to contracts of employment (in conjunction with the Town Clerk and the member of staff).
- g. To have delegated powers to consider and implement pay increments and payroll management.
- h. To submit proposals in respect of salaries to F&GP.
- i. To have delegated powers to consider and implement any changes, which are required to comply with Employment Law, Health & Safety Law and Terms & Conditions of Service as laid down by the National Joint Council (NJC "Green Book") and recommended by the National Association of Local Councils (NALC) and Society of Local Council Clerks (SLCC).
- j. To conduct, in party with the Clerk, annual staff appraisals. Responsibility will usually fall to the Chair or Vice Chair.
- k. To conduct, in party with the Mayor, the Clerk's annual appraisal. The Clerk's appraisal will be led by the Mayor, with support from the Chair of the Staffing Committee.

- l. All grievances and/or disciplinary action will be dealt with as per the Councils Grievance and Disciplinary policies.
  - m. The Staffing Committee reserves the right to refer any decision back to Full Council for consideration as and when necessary.
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## **APPENDIX 1 - COUNCIL ASSETS**

- Guildhall building
  - Old Market building, 18 x individual commercial units, toilets and a free car park
  - Ivy Lane building
  - The Butterwalk including 4 commercial, 3 residential properties and a museum
  - Coronation Park including the toilets, tennis courts, RNLI hut, Anchorstone Café and the dinghy park
  - Royal Avenue Gardens including the Visitor Centre, the tea hut, bandstand and toilets
  - Boatfloat and moorings
  - Castle Estate woodlands
  - Castle free carpark and toilets
  - Warfleet land
  - Warfleet dinghy park
  - Cemetery
  - Allotments
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- Trustees for one commercial property and one residential property in Anzac Street on behalf of the Henley Trust.