

# BARNSTAPLE TOWN COUNCIL

## SCHEME OF DELEGATION

REVISIONS		
Meeting Date	Minute Ref.	Amendment
18 <sup>th</sup> May 2020	TC007	Adopted at Full Town Council Meeting

## PART A - COMMITTEE TERMS OF REFERENCE

Committee	Responsible for:
<b>Planning and Transportation</b>	<ul style="list-style-type: none"> <li>• All planning matters, Development Control, Enforcement, Highways, Transport, Tree Preservation Orders</li> </ul>
<b>Heritage, Culture &amp; Community</b>	<ul style="list-style-type: none"> <li>• All matters relating to the use of the Heritage Centre, St Anne's Arts and Community Centre, the Albert Clock and the Guildhall, except for civic and ceremonial uses and Council meetings</li> <li>• Maintaining and promoting the heritage and culture of Barnstaple</li> <li>• Community engagement and links with community organisations – except where this is specific to a project or initiative that falls under another committee remit</li> </ul>
<b>Environment</b>	<ul style="list-style-type: none"> <li>• Footpaths, watercourse, Litter bins and other environmental issues</li> <li>• Healthy living and associated well-being matters</li> <li>• Public realm, including seats and benches</li> <li>• Tidy Up Our Town, including sponsorship and maintenance of green and planted areas</li> <li>• Floral displays, including High Street and the maintenance of Taw Garages roundabout</li> <li>• Management of allotments</li> <li>• Maintenance of The Square</li> </ul>
<b>Staff</b>	<ul style="list-style-type: none"> <li>• Recruitment and retention of staff</li> <li>• Training</li> <li>• Conditions of service including remuneration and pensions</li> <li>• Disciplinary and Grievance matters</li> <li>• Health and Safety of staff</li> </ul>
<b>Finance &amp; General Purposes</b>	<ul style="list-style-type: none"> <li>• Administration, Democracy and Corporate Governance</li> <li>• Budget monitoring, approval of payments, authorisation of expenditure beyond Committee budgets, recommendation of annual Precept</li> <li>• Ceremonial, Civic and special events.</li> <li>• All matters relating to annual Fair</li> <li>• Award of annual community grants</li> <li>• Insurance</li> <li>• Link to DALC and NALC</li> <li>• Maintenance, management and insurance of all Town Council properties, and civic and ceremonial, administrative and Council meeting uses of those properties</li> <li>• Provision of Notice Boards</li> <li>• Any matter not falling within the remit of other committees</li> </ul>
<b>Buildings Review</b>	<ul style="list-style-type: none"> <li>• Oversee the work and outcomes of the feasibility study regarding future uses of The Guildhall, St Anne's Arts and Community Centre, The Castle Centre, Barum House and Rock Park Lodge.</li> </ul>

- Each Committee has delegated powers to act within its area of operation
- Each Committee is empowered to incur expenditure within the approved estimates for its area of operation
- Each Committee is responsible for Health and Safety matters within its area of operations

## **PART B - SCHEME OF DELEGATION TO OFFICERS**

### **INTERPRETATION**

- Any reference in this document to the Mayor shall mean the Mayor or, in his or her absence, the Deputy Mayor.
- Any reference in this document to the Chairman of a committee shall mean the Chairman or, in his or her absence, the Vice-Chairman of the committee.
- Any use of these delegations shall be subject to challenge through the Council's complaints procedure or disciplinary procedure as appropriate.

### **1. INTRODUCTION**

- 1.1. The powers and duties set out in this scheme are delegated to the Town Clerk. The Town Clerk is the Council's Responsible Financial Officer and the Proper Officer and is responsible for the management of the organisation.
- 1.2. The Town Clerk may delegate these duties and powers to other officers within the Council as required for the effective management of the Council's business.

### **2. EXTENT OF DELEGATION**

- 2.1. All delegated functions shall be deemed to be exercised on behalf of and in the name of the Council.
- 2.2. The Town Clerk will exercise these powers in accordance with:
  - 2.2.1. approved budgets
  - 2.2.2. the Council's Standing Orders and Financial Regulations
  - 2.2.3. adopted policies of the Council
  - 2.2.4. all statutory common law and contractual requirements
- 2.3. 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.
- 2.4. 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:
  - 2.4.1. such authorisations being in writing
  - 2.4.2. only being given where there is significant administrative convenience in doing so
  - 2.4.3. the officer authorised by the Town Clerk acting in the name of the Town Clerk

2.4.4. such authorisation not being prohibited by statute

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

### **3. GENERAL MATTERS**

3.1. The Town Clerk is authorised to:

3.2. 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.

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

3.4. Instigate and appear in any legal proceedings authorised by the Council.

3.5. 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 Barnstaple).

3.6. Alter the date or time of a Full Council, committee, or working party meeting but, before doing so, shall consult the Mayor of the Council, or chairman of the committee or working party concerned about the need for the change and about convenient alternative dates and times.

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

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

3.9. Negotiate and enter into contractual arrangements for artistes, promoters and other relevant contractors in relation to events held in Barnstaple organised by the Town Council.

3.10. Manage all of the Council's services including:  
3.10.1. Environmental services (including allotments)  
3.10.2. Heritage, cultural and community services  
3.10.3. Civic and ceremonial services  
3.10.4. Mayoral support  
3.10.5. Rock Park  
3.10.6. Property management

3.11. To act as the Council's designated Officer for the purposes of the Freedom of Information Act 2000.

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

- 3.13. To respond to consultations on planning applications and other matters within the Planning & Transportation Committee's remit, subject to the comments of that committee.
- 3.14. To respond to complaints made under the Council's complaints procedure and to make such ex gratia payments in settlement of such complaints as are considered justified, subject to ratification by an appropriate committee.
- 3.15. To manage, monitor and review the Council's internal control procedures.
- 3.16. To manage, monitor and review the Council's Corporate Risk Management Strategy.

#### **4. FINANCIAL MATTERS**

- 4.1. The Town Clerk is authorised to:
- 4.2. Be the Responsible Financial Officer for the purposes of Section 151 of the Local Government Act 1972.
- 4.3. Operate the Council's banking arrangements including arranging overdrafts.
- 4.4. Incur expenditure 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 Standing Orders and Financial Regulations, and provided that the action does not conflict with a policy or decision of the Council.
- 4.5. Pay all accounts properly incurred.
- 4.6. Pay all subscriptions to organisations to which the Council belongs, and agree new membership of subscription organisations within the budgetary provision available.
- 4.7. Make all necessary arrangements for the provision of an internal and external audit service for the Council.
- 4.8. Negotiate settlements in connection with claims made by and against the Council in consultation with the Council's insurers where appropriate.
- 4.9. Incur expenditure on revenue items within the approved estimates and budgets.
- 4.10. Incur expenditure on capital schemes within the Council's approved programme.
- 4.11. Use available repair and maintenance budgets for the maintenance, replacement or repair of existing plant, vehicles or equipment.

- 4.12. Enter into leasing and contract hire agreements for the acquisition of vehicles, machinery and equipment on such terms as are considered appropriate.
- 4.13. Accept quotations or tenders for work supplies or services (where tenders are required by the Council's Financial Regulations), subject to:
  - 4.13.1. the cost not exceeding the approved estimate
  - 4.13.2. the tender being the lowest price or the most economically advantageous to the Council according to the criteria set out in the tender documentation
  - 4.13.3. all the requirements of the Council's Financial Regulations being complied with.
- 4.14. Carry out virement of sums between cost centres in accordance with the Council's Financial Regulations.
- 4.15. Manage investments and raise and repay loans as appropriate and obtain such other sources of credit as are required in accordance with the Financial Regulations.
- 4.16. Authorise action for the recovery of debts.
- 4.17. Write-off debts up to the level set by the Council.
- 4.18. Maintain a Register of Assets and Inventory of Equipment.
- 4.19. Determine the Town Council's insurance requirements on the Council's behalf.
- 4.20. Make all necessary arrangements for the Council's insurances.

## **5. STAFFING MATTERS**

- 5.1. Subject to consultation with professional advisors where appropriate, the Town Clerk is given delegated powers to manage the Council staff in accordance with the Council's policies, procedures and budget, including:
  - 5.2. Appointments to posts including apprentices.
  - 5.3. Employment of temporary or fixed term employees.
  - 5.4. Preparation or review of the job description and person specification, placing of the advertisement and short-listing of applicants.
  - 5.5. Management of staff performance.
  - 5.6. Control of discipline and performance, including the power of suspension and dismissal in accordance with the Council's procedures.
  - 5.7. Exercise of disciplinary and grievance procedures in accordance with the Council's procedures.

- 5.8. 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.
- 5.9. Approve or refuse applications for re-grading, remove any bars in salary scales and to authorise salary increments and accelerated increments.
- 5.10. Approve payment of overtime.
- 5.11. Agree minor variations to conditions of employment.
- 5.12. Implement and monitor the arrangements for annual leave, flexi time, sickness absence, maternity and paternity leave in accordance with the Council's policies.
- 5.13. Authorise training in line with the Council's policies.
- 5.14. Authorise the provision of uniforms or protective clothing.
- 5.15. Approve payment of claims from employees for compensation for loss of or damage to personal property.
- 5.16. Negotiate and agree settlements on behalf of the Council in relation to any proceedings at an Employment Tribunal.
- 5.17. Agree to premature retirement on the grounds of duly certified ill health.
- 5.18. Terminate employment during probation and to review salary on completion of probationary periods.
- 5.19. Commission legal and professional advice on staffing matters.

## **6. PROPERTY MATTERS**

- 6.1. The Town Clerk is given authority to manage the land and property of the Council including:
- 6.2. Agreeing the terms of any lease, licence, conveyance or transfer.
- 6.3. The granting or refusal of the Council's consent under the terms of any lease.
- 6.4. Variations of restrictive covenants of a routine nature.
- 6.5. The granting of easements, wayleaves and licences over Council land.
- 6.6. Initiating legal action or proceedings against unauthorised encampments or encroachments on Council land.

- 6.7. Directing the custody of Town Council property and documents in accordance with the provisions of Local Government Act 1972 S226.
- 6.8. Exercising responsibility for the safe custody and maintenance of the civic regalia.

## **7. URGENCY**

- 7.1. The Town Clerk is authorised to act on behalf of the Council in cases of urgency or emergency.
- 7.2. Any such action is to be reported to the next meeting of the Council or relevant committee or working party. The Mayor and the Chairman of any relevant committee or working party are to be consulted where possible before such action is taken.

## **8. BUSINESS CONTINUITY**

- 8.1. The Town Clerk is authorised to implement the Council's Business Continuity Plan and to incur any necessary expenditure in accordance with the Council's Standing Orders and Financial Regulations.
- 8.2. Any such action is to be reported to the next meeting of the Council or relevant committee or working party. The Mayor and the Chairman of any relevant committee are to be consulted where possible before such action is taken.

## **9. PROCEDURAL**

- 9.1. The Town Clerk can:
- 9.2. Authorise Officers to exercise statutory powers of entry and inspection for the purposes of any function under their control.
- 9.3. Serve requests for information as to ownership occupation and other interests in land for the purposes of any function under their control.
- 9.4. Appoint consultants and other professionals to carry out any function and provide any service under the Council's control, subject to the Council's Constitution and Financial Regulations.

## **10. HEALTH AND SAFETY AT WORK ACT 1974**

- 10.1. The Town Clerk is authorised to oversee the discharge of the Council's responsibilities under the Act.

## **11. LEGAL PROCEEDINGS**

- 11.1. The Town Clerk is authorised to:
- 11.2. Take and discontinue legal proceedings in any Court or at any Tribunal.



- 11.3. Take Counsel's advice or instruct Counsel to represent the Council.
- 11.4. Seek injunctions and commence proceedings for the purposes of:
  - 11.4.1. enforcement in accordance with the Council's policies
  - 11.4.2. recovering money due to the Council
  - 11.4.3. recovering or otherwise preserving possession of the Council's land or property
  - 11.4.4. defending the interests of the Council
  - 11.4.5. appealing against a decision affecting the interests of the Council and responding to appeals against action taken by the Council.
- 11.5. Represent the Council at Court or any Tribunal or to make arrangements for appropriate representation.
- 11.6. 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.
- 11.7. Apply the affixing of the Common Seal of the Council to documents in accordance with Standing Orders.
- 11.8. Be the responsible Officer for the co-ordination and operation of the legal requirements under the Data Protection Act and the Freedom of Information Act.
- 11.9. Serve Requisitions for Information.
- 11.10. Prepare a draft budget for consideration by the Council.
- 11.11. Prepare the final accounts for each financial year.