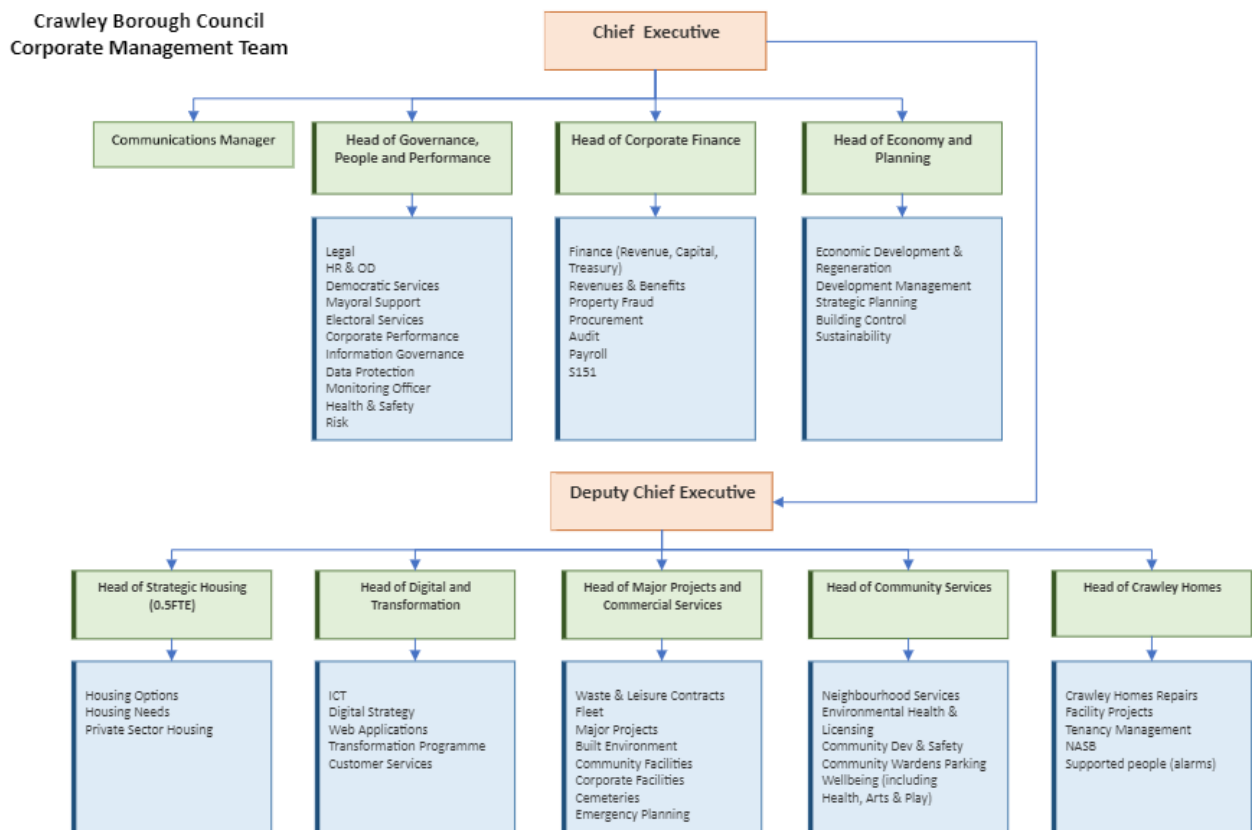


## COUNCIL OFFICER RESPONSIBILITIES AND DECISION MAKING

### 1. INTRODUCTION AND MANAGEMENT STRUCTURE

1.1. This section will detail the senior management structure of the Council, identifying the Chief Officers, Proper Officers and Statutory Officers along with their responsibilities.

1.2. **Chief Officers:** The definition of a Chief Officer for the purposes of any interpretation in this Constitution is Chief Executive, the Deputy Chief Executive and Heads of Services, as shown in the Chief Executive’s Corporate Management (CMT) Team structure below.



1.3. All Chief Officers have responsibility for the areas identified in the chart above. These responsibilities have been cascaded down to specific Chief Officers by the Chief Executive. These responsibilities can be delegated further through each Chief Officer’s sub-delegation scheme. More information regarding the cascade can be found in this Constitution.

1.4. Specific responsibilities assigned to individual Chief Officers are detailed in the following paragraphs.

1.5. **Statutory Officers:** The Council is required to appoint the following Statutory Officers:

- Head of Paid Service (Chief Executive).
- Monitoring Officer (Head of Governance, People & Performance).
- Section 151 Officer (Head of Corporate Finance).

The Council has a legal duty to provide the Monitoring Officer and Section 151 Officer with such resources that, in their opinion, are sufficient to allow their duties to be performed.

- 1.6. **Proper Officers:** As referred to in law, the term Proper Officer is a defined role/individual relating to specific responsibility. The Chief Executive, or in their absence the Monitoring Officer, is authorised to act as the Council's Proper Officer for the purpose of any function not otherwise identified in the following paragraphs or elsewhere in the Constitution.

## 2. RESPONSIBILITIES OF THE CHIEF EXECUTIVE

Post	Designation
Chief Executive	Head of Paid Service  Returning Officer  Electoral Registration Officer

2.1. In their role as Chief Executive they will:

- a) Have overall responsibility for corporate and operational management (including overarching management responsibility for all employees).
- b) Determine and publicise a description of the departmental structure of the Council showing the management structure and deployment of officers.
- c) Have overall responsibility for the services areas of the following officers:
  - Deputy Chief Executive.
  - Head of Corporate Finance.
  - Head of Economy and Planning.
  - Head of Governance, People & Performance.
- d) Prepare the Plans and Strategies which comprise the Policy Framework Documents and other key corporate policies as appropriate for agreement by the Cabinet and the Full Council.
- e) Be authorised to discharge any function of the Council in relation to those corporate/strategic responsibilities and departmental supervisory responsibilities allocated to them by the Council.
- f) Represent the Council on partnership and external bodies as required by statute or the Council.
- g) In case of urgency or an emergency, take any decision on behalf of the Council in accordance with the relevant Urgency Procedures (as set out in the Full Council Procedure Rules/Access to Information Procedure Rules within this Constitution).

- h) Hold specific responsibilities relating to the Employment Panel, namely:
- i) Chief Executive in consultation with the Leader:  
Action in accordance with any disciplinary code or capability procedure for the suspension from duty of non-statutory Chief Officers.
  - ii) Chief Executive:  
Authority to agree a Settlement Agreement in circumstances where an employee of the Council has made a claim or has a potential claim against the Council. In addition, where the Settlement Agreement includes an amount of financial compensation, the Chief Executive, in consultation with the Leader of the Council, has delegated authority to agree the amount following consultation with the Head of Governance, People & Performance (where the Chief Executive is the subject of the agreement then the Section 151 Officer will replace them in the authorisation process).

2.2. In their Statutory Officer role as Head of Paid Service they will:

- a) Make recommendations for the way in which the Council and the Constitution could be amended and/or improved to better achieve the overarching purposes of the Council. In undertaking this task, they may:
  - Observe meetings of different parts of the Council.
  - Undertake an audit trail of a sample of decisions.
  - Record and analyse issues raised with them by Councillors, officers, the public and other relevant stakeholders.
  - Compare practices in this Council with those in comparable authorities, or national examples of best practice.
- b) Not be the Monitoring Officer but may, although not preferable, hold the post of Chief Finance Officer if a qualified accountant.
- c) Together with the Monitoring Officer, provide professional advice to all parties in the decision making process and maintain a system of record keeping for all the Council's decisions.
- d) Be authorised to discharge any Council or Executive function not otherwise delegated to a Chief Officer, including civic and ceremonial functions of the Council, and to take any action remitted to them under corporate policies or the Delegation Scheme.
- e) Any reference to the Clerk of the Council or the Town Clerk of a Borough in any enactment or instrument passed before the Local Government Act 1972 shall be taken as a reference to the Head of Paid Service.

2.3. In their roles as Returning Officer and Electoral Registration Officer they will:

- a) Act as Electoral Registration Officer for the registration of Parliamentary and Local Government Electors and Acting Returning Officer/Returning Officer for Parliamentary, Local, Parish, referendum and Police and Crime Commissioner Elections under the relevant provisions of the Representation of the People Act 1983 and as Proper Officer for all related functions and relevant legislation.

- b) Assign officers in relation to requisitions of the Electoral Registration Officer.
- c) Pay expenses properly incurred by Electoral Registration Officers.
- d) Hold powers in respect of holding elections (including temporarily changing a polling place if necessary).
- e) Declare any vacancy in office in certain areas.
- f) Give public notice of a casual vacancy.
- g) Determine fees and conditions for supply of copies of, or extracts from, elections documents.
- h) Act as Acting Returning Officer for European Elections under the relevant provisions of the European Parliamentary Elections Act 2002, including providing assistance at European Parliamentary elections, and to act as Proper Officer for all related functions and relevant legislation.

*NB: The Deputy Electoral Registration Officer is appointed by the Full Council. This position is currently held by the Electoral Services Manager.*

### **3. RESPONSIBILITIES OF THE DEPUTY CHIEF EXECUTIVE**

3.1. The Deputy Chief Executive will:

- a) Deputise for the Chief Executive as appropriate.
- b) Be the lead officer on specific corporate priorities.
- c) Have overall responsibility for the service areas of the following officers:
  - Head of Community Services.
  - Head of Crawley Homes.
  - Head of Digital and Transformation.
  - Head of Major Projects and Commercial Services.
  - Head of Strategic Housing.

### **4. RESPONSIBILITIES OF HEAD OF GOVERNANCE, PEOPLE & PERFORMANCE**

<b>Post</b>	<b>Designation</b>
Head of Governance, People & Performance	Monitoring Officer  Council's Solicitor  Data Protection Officer  Senior Responsible Officer for RIPA and Surveillance Matters

4.1. In their role as Head of Governance, People & Performance they will:

- a) Provide the Council, Councillors and officers with professional legal advice.
- b) Act as Solicitor to the Council to institute, defend, participate, settle or discontinue any legal proceedings on own initiative (where necessary to give effect to decisions and to protect the Council's position/interests) or following consultation with the relevant Head of Service on significant cases.
- c) Authenticate documents, including any relating to legal proceedings, and to sign and execute, under Seal, any documents on behalf of the Council.
- d) Conduct and appear (or authorise another officer to appear) on the Council's behalf in proceedings before any court, public inquiry or tribunal as far as a Right of Audience is available.
- e) Obtain the opinion of and/or instruct Counsel/Solicitors to represent the Council in any court proceedings, public inquiry or tribunal where they deem it to be in the best interest of the Council.
- f) Serve notices to obtain any information necessary for the Council to take a decision, or as a consequence of a decision taken by the Council.
- g) Hold a specific responsibility relating to the Employment Panel, namely the authority to establish an Independent Panel.
- h) Hold a specific responsibility relating to the Licensing Sub-Committee (Hearings), namely the power to extend a time limit provided for in the Licensing Act 2003 (Hearings) Regulations 2005 in accordance with Regulation 11, where it is considered to be in the public interest.

4.2. In their Statutory Officer role as Monitoring Officer they will:

- a) Maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by Councillors, officers and the public.
- b) After consulting the Chief Executive and Head of Corporate Finance, report to the Full Council or to the Cabinet (in relation to a Cabinet function) if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) Contribute to the promotion and maintenance of high standards of conduct for Councillors through provision of support to the Audit Committee, Governance Committee and the Employment Panel.
- d) Appoint a suitably qualified person to conduct investigations where an allegation has been referred for investigation.
- e) Ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible (See the Access to Information Procedure Rules for further details).
- f) Advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework Documents.
- g) Interpret this Constitution and provide guidance to the Mayor, Leader, Committee Chairs, Councillors and officers as appropriate.

- h) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, the Budget and policy framework issues to all Councillors.
- i) Not be the Chief Finance Officer or the Head of Paid Service.
- j) Produce and maintain the Monitoring Officer Protocol.
- k) Act as the 'qualified officer' under the Freedom of Information Act 2000.
- l) Make recommendations for the way in which the Council and the Constitution could be amended and/or improved to better achieve the overarching purposes of the Council. In undertaking this task, they may:
  - Observe meetings of different parts of the Council.
  - Undertake an audit trail of a sample of decisions.
  - Record and analyse issues raised with them by Councillors, officers, the public and other relevant stakeholders.
  - Compare practices in this Council with those in comparable authorities, or national examples of best practice.
- m) Appoint a Deputy Monitoring Officer(s) to exercise all the powers and duties of the Monitoring Officer in their absence.
- n) Hold power to grant dispensations under the provisions of the Code of Conduct for Councillors.

4.3. The Head of Governance, People & Performance fulfils the position of Data Protection Officer on behalf of the Council.

4.4. The Head of Governance, People & Performance fulfils the position of Senior Responsible Officer for the purpose of the Regulation of Investigatory Powers Act 2000 (RIPA) and any Surveillance Matters.

4.5. They will hold responsibility for the following Proper Officer designations:

<b>SECTION</b>	<b>DUTY/RESPONSIBILITY</b>
<b>Local Government Act 1972</b>	
83	Witness and receive declarations of acceptance of office.
84	Receive declaration of resignation of office.
88	Convene meetings of Council to fill casual vacancy in the office of Mayor.
100B	Decide whether information is likely to be exempt when coming before the Full Council, Cabinet or a Committee.
100C	Produce a written summary of proceedings taken by the Full Council, Cabinet or a Committee.
100F	Decide whether a document discloses exempt information.
225	Receive and retain any document deposited with the Council for custody.
228	Inspection of documents.
229	Certificate photographic copies of documents.
234	Authenticate documents.

<b>SECTION</b>	<b>DUTY/RESPONSIBILITY</b>
Schedule 12(4)	Sign and send to all members of the Council, the summons to attend meetings of the Council.
Schedule 14 (25)	Certify resolutions under that Paragraph for the purposes of legal proceedings.
<b>Local Government (Miscellaneous Provisions) Act 1976</b>	
41	Certificate copies of formal documents as evidence in legal proceedings.
<b>Local Government and Housing Act 1989</b>	
All Proper Officer responsibilities contained within the Act.	
<b>Local Government (Committees and Political Groups) Regulations 1990</b>	
Give, deliver and receive notices and expressions of wishes.	
<b>Local Authorities (Referendums) (Petitions) (England) Regulations 2011</b>	
Reg 4	Publish verification number of petitions (HoPS).
apart from Reg 4	Responsibilities in relation to petitions etc.
<b>Localism Act 2011</b>	
33	Receive and grant written applications for dispensations.
<b>The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</b>	
Regs 3, 4, 5, 9, 11, 15, 17 and 21	Record decisions. Inspect documents. Access to papers. Publicity in connection with Key Decisions. Exceptions to forward plans. Additional rights of Councillors to documents. Confidential information.

## 5. RESPONSIBILITIES OF THE HEAD OF CORPORATE FINANCE

<b>Post</b>	<b>Designation</b>
Head of Corporate Finance	Chief Finance Officer  Section 151 Officer

5.1. In their Statutory Officer role as Chief Finance Officer/Section 151 Officer they will:

- a) After consulting the Head of Paid Service and the Monitoring Officer, report to the Full Council (or to the Cabinet in relation to a Cabinet function) and the Council's external Auditor if they consider that any

proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

- b) Have responsibility for the administration of the financial affairs of the Council.
- c) Contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, the Budget and Policy Framework Document issues to all Councillors.
- e) Provide financial information to the media, members of the public and the community.
- f) In relation to borrowing limits, manage the movement between the separately agreed limits for borrowing and other long-term liabilities within the total authorised limit for any individual year.
- g) Make recommendations for the way in which the Council and the Constitution could be amended and/or improved to better achieve the overarching purposes of the Council. In undertaking this task, they may:
  - Observe meetings of different parts of the Council.
  - Undertake an audit trail of a sample of decisions.
  - Record and analyse issues raised with them by Councillors, officers, the public and other relevant stakeholders.
  - Compare practices in this Council with those in comparable authorities, or national examples of best practice.
- h) Appoint a qualified officer(s) to deputise for them if they are unable to perform their duties.

5.2. They will hold responsibility for the following Proper Officer designations:

<b>SECTION</b>	<b>DUTY/RESPONSIBILITY</b>
<b>Local Government Act 1972</b>	
115	Receipt of money due from officers.
146	Signing of declarations and certificates with regard to securities.
<b>Local Government Finance Act 1988</b>	
116	Notify the Auditor of steps taken under Section 115 of this Act.



## 6. OTHER PROPER OFFICER DESIGNATIONS

- 6.1. The Head of Economy and Planning will hold responsibility for the following Proper Officer designations:

SECTION	DUTY/RESPONSIBILITY
<b>Highways Act 1980</b>	
295	Serve notice requiring owner to remove old materials.
321 Schedules 9 and 15	Sign any notice, consent, approval, order etc. under this Act.
<b>Building Act 1984</b>	
78	Exercise powers of the Council in relation to emergency measures to dangerous buildings.

- 6.2. Report Authors will hold responsibility for the following Proper Officer designations:

SECTION	DUTY/RESPONSIBILITY
<b>Local Government Act 1972</b>	
100D	Decide what comprises a background paper; and retention and inspection of background papers (report authors).

## 7. THE CASCADE AND THE GENERIC DELEGATIONS

### Introduction

- 7.1. In order to ensure the efficient delivery of all the services, the Full Council and the Leader delegate officers the operational powers needed to fulfil their responsibilities.
- 7.2. However, all functions reserved to the Full Council by Statute, Standing Orders or Financial Regulations are not delegated. Strategic, policy setting and other “Key Decisions” remain the responsibility of the Leader and their Cabinet (as set out in the “Executive” Function (the Leader and the Cabinet)).
- 7.3. Any decision taken by officers under this Scheme must be in accordance with policy or direction as approved by the Full Council and/or the Cabinet and within the approved budgets.
- 7.4. Therefore the majority of officer delegated decisions will be Operational (‘Non-Key’) Decisions.

### What is the Cascade?

- 7.5. Officers’ decision making powers have been delegated by means of a standing cascade. This means that there are no long lists in this Constitution of specific powers and who those powers have been delegated and sub-delegated to.

- 7.6. Instead, there is a standing delegation of all necessary powers from the Full Council and the Leader (and their Committees) to the Chief Executive. From the Chief Executive there is a standing delegation to either the Deputy Chief Executive or directly on to the Heads of Service. The cascade continues down through the Heads of Service to managers and relevant officers via a sub-delegation scheme for each Chief Officer.
- 7.7. In each case the powers delegated are the full range and extent vested in the Council to discharge functions, implement decisions, and undertake the efficient operational management of the Services for which each Chief Officer is responsible.
- 7.8. Officers should be aware that the Head of Corporate Finance has statutory duties in relation to the financial administration of the Council. Similarly the Head of Governance, People & Performance shall act as Solicitor to the Council and they are authorised to institute, defend or participate in any legal proceedings to protect the interests of the Council. These statutory responsibilities cannot be overridden.

### **Sub-Delegation Schemes**

- 7.9. The Chief Executive, Deputy Chief Executive and each Head of Service (Chief Officers) will be responsible for producing a sub-delegation scheme setting out which officers are responsible for taking which decisions (using a template provided by the Monitoring Officer) and keeping these updated and available on the intranet.
- 7.10. Chief Officers, in consultation with their managers, will determine the most appropriate level of officer within their service who are suitably competent and qualified to carry out delegations under their authority. They shall do this by ensuring that there is clarity in their team structure and officer positions.
- 7.11. Chief Officers can reserve the right to take certain decisions on particular matters which would ordinarily be taken at a point further along the chain of cascade.
- 7.12. When officers act under delegated powers, they do so in the name of their Chief Officer who will retain ultimate responsibility for the decision.
- 7.13. Any ambiguity as to whether or not an officer has authority to carry out a delegation will be resolved through referring the matter back up through the chain of cascade (as appropriate) to managers, Chief Officers or ultimately the Chief Executive. Confirmation of authority shall be given in writing.
- 7.14. Reference to any statutory provision within a sub-delegation scheme will include any amendments, re-enactment or subordinate legislation thereof.

### **Limitation of Delegated Authority**

- 7.15. As referred to in Paragraph 1, Chief Officers, their managers and staff, cannot take decisions specifically reserved for Councillors, including the adoption of new policy and unbudgeted expenditure.
- 7.16. Officers are only empowered to act in respect of matters which fall wholly within their service area responsibilities and levels of competence.

- 7.17. Where a decision will impact upon another service area, officers are obliged to consult with, and take appropriate advice from, the Chief Officer of the associated service.
- 7.18. Where a decision has potential financial or legal implications, advice should be sought from the Head of Corporate Finance and/or the Head of Governance, People & Performance respectively.

### **Referring a Decision to Someone Else**

- 7.19. Officers, in consultation with those above them in the chain of cascade, may decline to exercise powers where they consider it would be more appropriate for one of the following to exercise that power instead:
- a) **“Non-Executive” Functions:**
    - Another officer (further up the chain of cascade).
    - A Committee/Sub-Committee.
    - The Full Council.
  - b) **“Executive” (Cabinet) Functions:**
    - Another officer (further up the chain of cascade).
    - A Cabinet Member.
    - The Leader.
    - The Cabinet (the Cabinet shall not exercise its delegated powers when a decision has been Called-In).
- 7.20. Where an officer with delegated authority is unable to carry out the delegation, then an alternative officer who is suitably qualified and competent can act in their place. This will usually follow the chain of cascade or line of management back up through managers and Chief Officers to the Chief Executive.
- 7.21. The Chief Executive has the right to take any decision (in particular those which are highly politically sensitive or high profile), including those that have been delegated to an officer by the Full Council, the Cabinet or any Committee, except those reserved specifically to a Statutory Officer (i.e. Section 151 Officer or the Monitoring Officer) or, in their absence, their deputy.
- 7.22. In the event of the Chief Executive being absent or otherwise unable to act, the appropriate Chief Officer shall be authorised to act in their place.

### **Taking and Recording Decisions**

- 7.23. In taking decisions, officers shall be satisfied that they can demonstrate that they:
- Have been delegated the authority to take the decision.
  - Have undertaken all necessary consultation.
  - Are aware of the process required to record the decision correctly.
  - Will keep an adequate record of the decision taken.
- 7.24. In taking decisions, officers must consider the nature, subject matter, and likely impact of their decision. They will liaise closely with those above them in the chain of cascade, especially where a matter is potentially politically sensitive, or has significant operational impact. In such cases it may also be appropriate to consult with the relevant Cabinet Member/s, Committee Chair and/or Ward Councillors.

- 7.25. If the decision is an ‘Executive’ function then delegations are based on “Non-Key (Operational) Decisions”. However should a decision become “Key” officers should contact Democratic Services.
- 7.26. If a ‘Key Decision’ has been taken by the Cabinet/Cabinet Member, and as a consequence other decisions are required, these become ‘Non-Key’ and follow the cascade. They may however need to be recorded as a Significant Operational Decision (see Access to Information Procedure Rules/Decision Making Introduction).
- 7.27. In taking decisions, officers must at all times observe and abide by the principles and controls governing officer decision as detailed in the Council Officer Responsibilities and Decision Making section of this Constitution.

**The Generic Delegations**

- 7.28. Listed below are the generic delegations from which all officer delegations stem through the cascade. For the avoidance of doubt, the use of these delegations includes the power to take all action necessary in connection with or ancillary to those delegations.

	<b>Generic Delegations</b>
1.	The authorisation of officers as may be required by legislation (whether inter alia as “Proper Officers”, “Appointed Officer”, “Qualified Officer”, “Designated Officer”, “Specific Point of Contact” or otherwise) to undertake certain roles, or to exercise or discharge any powers, duties or functions including investigatory or regulatory functions and affecting entry and inspection of land or premises.
2.	All matters relating to the instruction of external Solicitors or Barristers and the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Head of Governance, People & Performance (and their duly authorised officers) who shall be authorised to prosecute institute, defend, settle, discontinue, conclude or otherwise participate in any such proceedings or take any other action considered necessary to give effect to decisions of or protect the interests of the Authority.
3.	In exercising their delegated powers Chief Officers may serve, receive and act upon: <ul style="list-style-type: none"> <li>• The issuing, service, variation, or withdrawal of any notice, direction, determination, requisition, ultimatum or demand.</li> <li>• The making, confirmation, variation or withdrawal of any order or regulation.</li> <li>• The formation, variation or termination of any contract or agreement.</li> <li>• The granting, variation, revocation, withdrawal or termination of any permission, notice, authorisation, licence or consent.</li> </ul> in the exercise of any discretionary power or in complying with any duty of the Council.
4.	The introduction, setting, reviewing and variation of fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval (where objections are received in respect of reviewing and setting fees for Hackney Carriage and Private Hire driver, vehicle and operator licences, the matter will be determined by the Licensing Committee).

	<b>Generic Delegations</b>
5.	<p>Matters in respect of consultations:</p> <ul style="list-style-type: none"> <li>a) Approval of documents for public/stakeholder consultation, the carrying out of consultation, responding to consultation in line with this Council's Protocol, adoption of documents following consultation and the submission of documents to the appropriate authority.</li> <li>b) Responding to consultation documents where the views of local authorities are sought generally. <i>(NB. All responses from the Council as Local Planning Authority to plans and proposals submitted by other Local Authorities are reserved to the Head of Economy and Planning.)</i> A copy of the response to consultations submitted shall be published in the Councillors' Information Bulletin.</li> <li>c) Prior to submission, any officer must consult the Head of Community Services on any proposed Traffic Regulation Orders.</li> </ul>
6.	The acceptance and determination of applications (including grants) made in accordance with Council policy/procedure and other legislation.
7.	The day-to-day management of services, including (but not limited to) the seeking of external funding and the implementation and monitoring (as well as necessary minor amendments) of approved Council policies, practices, strategies and schemes.
8.	The Head of Corporate Finance has statutory duties in relation to the financial administration and stewardship of the Authority and this statutory responsibility cannot be overridden. The Financial and Budget Procedure Rules, Procurement Code and approved Council Budget set out the financial limits that officers must work within and the procedures they must follow. This also includes the financial limits in respect of the purchase and disposal of land.
9.	The management and maintenance of residential Council owned properties (including garages) and tenancies (including but not limited to the renewal of leases, rent reviews, rent guarantees, service charges, sale, purchase and re-purchase of properties).
10.	The management and maintenance of non-residential Council properties and land including but not limited to the renewal of leases, rent reviews, service charges, the approval of the annual programme of building maintenance works where the cost does not exceed £100,000 and excluding the purchase and disposal of land.
11.	Decisions on Human Resources matters below Head of Service level relating to their service area, subject to the appropriate guidance and procedures issued by the Council and any changes being within the constraints of the approved financial limits and the Financial and Budget Procedure Rules (in relation to Head of Service level and above, such decisions will be taken by the Chief Executive in consultation with the Leader).