

CLYDACH COMMUNITY COUNCIL

Scheme of Delegation

Background

Whenever the Council conducts business it must ensure that the decisions it takes are both lawful and reasonable. It cannot use unlawful practices and procedures to make a decision nor should it act beyond its powers. Under specific powers contained in the Local Government Act 1972, Section 101, the Council may arrange for the discharge of any of its functions by a Committee, a Sub-committee, an officer of the Council or by any other local authority. Whilst the business of the Council is quite varied, it is quite practical, except in exceptional circumstances for it to discharge most of its functions by decisions at Council, although recommendations from its various Committees and from the Clerk to the Council may well inform those decisions. Where there is a specific resolution of Council on a specific matter, however, the delegation of powers to its Committees under their terms of reference may occur.

Individual Members, including the Chair of Council, are not able to make a decision on behalf of the Council, as this is unlawful.

The Council does have an expectation that the Clerk to the Council should have a mandate to take decisions which pertain to the day-to-day management of the Council's business, and which would not normally be reported to Council, or be reported retrospectively. To this end, it has established a scheme of delegation to the Clerk to enable the individual to make urgent decisions in between the cycle of meetings and for dealing with day to day managerial and office matters. The scheme of delegation is adopted as Council policy.

CLERK'S SCHEME OF DELEGATED POWERS

1. INTRODUCTION

This Scheme of Delegation is derived from the provisions contained in Sections 101 and 151 of the Local Government Act 1972. The Clerk is authorised to make arrangements for the proper administration of the functions falling within their responsibility.

- 1.1 The Clerk may authorise officers to exercise on their behalf, functions delegated to them. Any decisions taken under this authority shall remain the

responsibility of the Clerk and must be taken in the name of the Clerk who shall remain accountable and responsible for such decisions.

- 1.2 The scheme delegates powers and duties within various functional descriptions and includes powers and duties under all legislation present and future within those descriptions. Any reference to a specific statute includes any statutory extension or modification or re-enactment of such statute and any regulations, orders or bylaws made thereunder.
- 1.3 In exercising delegated powers the Clerk shall comply with -
 - (1) Any statutory provisions;
 - (2) The Council's Standing Orders and Financial Regulations;
 - (3) The Council's policy framework and budget;
 - (4) The Employee's Code of Conduct;
 - (5) Agreed arrangements for recording decisions;
 - (6) Taking legal or other appropriate professional advice when required;
 - (7) The principles of best value by using the most efficient and effective means available;
 - (8) The need to consult persons or representatives of persons who may be affected by the decision, including where appropriate the local Ward Member.
- 1.4 The scheme does not delegate any matter which –
 - (1) Is reserved by law or by the Council's Standing Orders and Financial Regulations;
 - (2) Which may not by law be delegated to an officer.
- 1.5 The scheme places an obligation on the Clerk to keep the appropriate Member(s) properly informed of decisions made under these delegations. Where the Clerk makes a significant decision which is based upon a power delegated from the Council, that decision must be retrospectively reported and recorded in the Council Minutes and made available on request to individual Councillors and to the public, subject to any limitations on exempt or confidential information.
- 1.6 It is always open to the Council or any Committee of the Council as appropriate to take decisions on any matter falling within the delegated power of the Clerk, provided that as far as Committees are concerned the matter falls within their terms of reference.

- 1.7 Where expenditure is involved, such action shall be conditional upon financial provision being included within the approved budget of the Council and Financial Procedure Rules being complied with.
- 1.8 The Council will review from time to time as may be necessary the general operation of this scheme of delegation with any variation or amendment requiring the approval of the Council.
- 1.9 In exercising these delegated powers the Clerk shall have broad discretion subject to complying with all relevant legislation, the Council's Standing Orders and Financial Regulations and overall Council policy, to use the most efficient and effective means available, including the deployment of staffing and other resources within their control and the procurement of other resources necessary, whether within or outside the Council.
- 1.10 The Clerk shall act so as to achieve the policies and objectives of the service area, always having regard to the overall corporate interests of the Council.
- 1.11 In exercising delegated powers, the Clerk shall consult other officers as appropriate and shall have regard to any advice given.
- 1.12 Where a significant decision is to be made, and depending on the functional area of activity, it shall always be required that the Clerk consult the Chair of Council or Vice-Chair before exercising delegated powers as the circumstances so determine.

2. GENERAL POWERS

- 2.1 Determination of all matters which are not required to be considered by the Council or which have not been referred to a Committee or a Sub-committee for determination.
- 2.2 Determination of any urgent matter in the purview of the Council or any Committee where it is impractical to convene a meeting of that body to consider the matter.
- 2.3 To incur expenditure or take any other step in the day-to-day operation of Council services in accordance with approved budgets of any service area.
- 2.4 To take action on behalf of the Council in consultation with the Chair of Council and/or Committee Chair in any urgent matter which does not allow for prior authorisation to be obtained where –

- (1) There is a serious risk of significant cost to the Council or loss of income resulting from lack of immediate action;
- (2) The Council's property or staff or persons in its care or for whom it has a responsibility would otherwise be placed at serious risk of suffering harm/damage.
- (3) An emergency or disaster involving destruction or danger to life or property occurs or is imminent or there is 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.

3. ADMINISTRATION

- 3.1 To make a major contribution to formulation, development, revision, monitoring and review of the Council's objectives and its strategies for achieving them.
- 3.2 To support initiatives of the Council through research, analysis and to advise the Council accordingly.
- 3.3 To make proposals for revision and amendments to Council policies and procedures where these may be beneficial to the area, to the administration of the Council and/or to the correct conduct of Council business.
- 3.4 To be responsible for the safe, secure, convenient and accessible custody of all deeds, plans, records, correspondence and other documents concerning the Council.
- 3.5 To receive and process correspondence and documents on behalf of the Council and to deal expeditiously therewith bringing such items to the attention of the Council or appropriate Committee or Chair as appropriate. To respond on behalf of the Council and as directed to all correspondence. The Clerk shall consult the Chair of Council or the appropriate Committee Chair when correspondence is received outside the meeting cycle to agree appropriate action, which if left until the next ordinary cycle of meetings would not be properly considered or determined.
- 3.6 To supervise members of staff and to undertake all necessary activities in connection with the management of salaries, conditions of employment and work of other staff. To develop the skills of all employees and to identify training needs and attendance at appropriate training courses. To develop appropriate personnel policies and procedures.

3.7 Advise the Council on the development of the offices of Chair and Vice Chair of Council and to advise and assist the incumbents in the performance of their duties.

3.8 To develop the local profile of the Council and to establish and maintain constructive relationships with other local authorities, local groups, the press and relevant organisations who share the interests of the Council.

Furthermore, to represent the Council as required at public meetings and other events and to issue statements and press releases concerning the activities or decisions of the Council.

3.9 To undertake statutory and non-statutory publicity and consultations.

4. HEALTH AND SAFETY AT WORK

4.1 To be responsible for all matters in relation to Health and Safety at work as defined in the Council's Health and Safety Policy.

5. PROPER OFFICER FUNCTIONS

5.1 The Clerk to the Council is the Proper Officer of the Council and, therefore, is under a statutory duty to carry out all the functions and, in particular, to serve or issue all the notifications required by law of a local authority's Proper Officer.

5.2 Proper Officer functions under the Local Government Act 1972 are delegated as follows –

- (1) To sign summonses to attend Council, Committee and Sub-committee meetings;
- (2) To exclude reports or parts of reports from the right of public inspection;
- (3) To receive and retain deposited documents;
- (4) To certify documents;
- (5) To sign any documents on behalf of the Council relating to land;
- (6) To sign any contractual documents on behalf of the Council relating to any matter, subject (as appropriate) to advice about the proposed signing of such document in advance of such signing;
- (7) To receive Declarations of Acceptance of Office by Clydach Community Councillors and Co-opted Members.

5.3 The Council has made arrangements for the proper administration of its financial affairs and has appointed the Clerk as its Responsible Financial Officer (RFO). The RFO has responsibility for the administration of those affairs in accordance with Section 151 of the Local Government Act 1972 and more specifically as prescribed in the Council's Financial Regulations.

6. LEGAL AGREEMENTS AND CONTRACTS

6.1 To sign on behalf of the Council in respect of any contract or legal agreement.

7. EXTERNAL LEGAL ADVICE

7.1 To procure external legal advice and support in relation to any proceedings or matter involving the Council or partnership in which the Council has an interest where that is considered to be appropriate.

8. PLANNING MATTERS

8.1 To comment on planning applications where a response is required outside the Council's cycle of meetings in the following instances –

- (1) Delegated power is granted on the understanding that at all times, the Members of Council are consulted by e-mail, and afforded the opportunity to express views before a comment is submitted to the Local Planning Authority, with any such views received being reflected in the comments submitted.
- (2) As a general rule of thumb, controversial or high-profile planning applications promoting large scale or major development proposals are excluded from the scheme of delegation. For the avoidance of doubt large scale or major developments exclude standard planning applications covering proposals such as house extensions, porches, conservatories, garages, erection of signs and TPO applications.
- (3) In instances where planning application comments have been submitted by the Clerk, an information report is presented to the next meeting of Council, providing details of the applications in order for there to be a formal record in the Council minutes.