

## PART 3.4 - SCHEME OF OFFICER DELEGATIONS

### INTRODUCTION

This scheme has been adopted by Swale Borough Council and its Executive and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 15 of the Local Government Act 2000 and all other powers enabling delegations to officers.

The delegations which follow are subject to the responsibility of the Chief Executive to ensure the efficient management and execution of the Council's functions and implementation of its policies.

The purpose of the delegations is to lead to a streamlining of the processes of the Council.

Any reference to any Act of Parliament shall include references to regulations, subordinate legislation and European Union legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.

Reference to any enactment, regulation, order or byelaw shall include any amendment, re-enactment or re-making of the same.

Any post referred to below shall be deemed to include any successor post or a post which includes within the job description elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

The exercise of any delegated power is subject to: -

- the overriding requirement to ensure that the financial effect of the delegation will fall within an approved budget;
- the Council's policies including the Budget and Policy framework, the Procedure Rules, Protocols and Codes in this Constitution;
- any statutory restrictions; and
- the right of Council, Cabinet or committee to decide on any matter in a particular case.

In streamlining, wherever possible the scheme of delegation, reference is made only where appropriate to the policies under which the delegation is being exercised. There is an overriding requirement that all delegations are agreed with the law and the council's policies.

Before deciding whether to exercise the delegation the officer concerned should ensure that the Director and/or Heads of Service has considered whether the matters is of a controversial nature, or involving significant changes in policy, to require consultation upon with the relevant committee chairman or cabinet member and recorded or agreement reached to report to the cabinet, council and committee as appropriate.

Officers shall also undertake all the operational duties within the remit of their team or service and all necessary powers to do this are therefore deemed to be delegated to the relevant Director or Head of Service or Officer who has responsibility for the discharge of the function.

So far as the delegations relate to powers which arise by virtue of agency agreements they are subject also to any qualifications contained in the respective agreements.

Reference in these delegations to any Statute, Statutory Instrument or Regulation made thereunder shall be deemed to include any statutory re-enactment or modification thereof and any Order or Regulation made thereunder.

Except where specific provision is made by legislation or by resolution of the Council, the Heads of Service are appointed to be the proper officers in respect of any legislation falling within the scope of their respective services.

All Directors and Heads of Service shall designate an appropriate responsible officer to deputise during his/her absence or indisposition.

The delegated powers held by an officer may be exercised by the line manager of that officer, and any Director or Head of Service may authorise other responsible officers (who have the relevant skills and knowledge) to act on their behalf, provided that there is a written record of such authorisation. A central record will be kept.

Where the Council, a Committee or Sub-Committee, the Leader, Cabinet, a Cabinet, Committee or an individual Cabinet Member has delegated a function to an Officer, the person or body making the delegation may at any time resume responsibility for the function either in respect of a particular matter or generally, and so may exercise the function despite the delegation.

In determining the suitability of an officer to be given this authority, regard must be had to the nature of the authority being given, the seniority of the post, the experience of the relevant officer and all other relevant circumstances so as to ensure that the authority and the relevant officer are appropriately matched. This authorisation must:

- be in writing, dated and signed by the officer giving the authority;
- specifically identify the post and person authorised to carry out the functions;
- specifically identify the functions to which the authorisation relates (attach an extract from the scheme as the numbering may change over time); and
- identify any conditions (if any) to which the authorisation is subject..

### **Conflicts of Interest**

Every Officer is responsible for identifying whether he/she has any conflict of interest in any matter which is under consideration, actual or perceived, within the authority, and notifying the authority (including under section 117 of the Local Government Act 1972).

Where an Officer has a conflict of interest in any matter, he/she shall not participate in that matter in his/her capacity as an Officer except with the prior approval of his/her line manager, the Monitoring Officer or the Chief Executive.

Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the Corporate Directors collectively, or by such Officer as they shall determine for this purpose.

Where a Corporate Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter him/herself or allocate the matter to another Officer.

Where the Monitoring Officer is unable to act on a matter in his/her statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Officer designated by the Monitoring Officer as Deputy Monitoring Officer.

Where the Monitoring Officer is unable to act on a matter under the Standards Committee Regulations 2008 in relation of Member conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act

2000.

Where any other Officer is unable to act on a matter that Officer's line manager or the Chief Executive may arrange for another Officer to discharge the matter.

## DELEGATIONS TO THE CHIEF EXECUTIVE

### General

1. To be and carry out the duties of Head of Paid Service and to exercise authority over all other officers of the Council so far as is necessary for the efficient management of the Council's functions.
2. All appointments, (including appointments for particular statutory purposes), discipline and dismissals of staff at and below Head of Service level is —delegated to the Chief Executive (for Heads of Service appointments a joint Member officer decision-making panel will be constituted, the member of which will be agreed between the Leader and Chief Executive); appointment and dismissal of Directors and Section 151 Officer must be confirmed by the Appointments Sub-Committee.  
~~decision-making panel will be constituted, the membership of which will be agreed between the Leader and Chief Executive); appointment and dismissal of Directors and Section 151 Officer must be confirmed by the Appointments Sub-Committee.~~
3. To exercise the power to appoint a Designated Independent Person in respect of disciplinary investigations or proceedings in respect of the Monitoring Officer or Chief Finance Officer. This delegation is to be exercised in consultation with the Leader.
4. To nominate a deputy who may exercise the Chief Executive's powers in the absence or incapacity of the Chief Executive.
5. To exercise any of the powers delegated to any other officer, including Directors.
6. To bring forward proposals for restructuring of the Council where it may be required or thought to be desirable to ensure that the Council has advice on the establishment and structure needed to carry out efficiently the work of the Council. This includes undertaking any statutory consultation or other consultation.
7. Health and Safety.
8. To liaise with national and local associations, authorities, groups, companies, organisations and individuals to further the policies and objectives of the Council.
9. To be responsible for undertaking negotiations and consultation with staff through their trade unions on all matters relating to employment.
- ~~7-10.~~ To submit responses to government and other bodies, consulting on changes to legislation and policy, as considered appropriate, following consultation with the appropriate Cabinet Member.

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### Emergency Measures – in exercising these delegations the Chief Executive will ensure that the Leader is informed in accordance with the Council's Emergency Plan.

- ~~8-11.~~ To be authorised in response to a serious emergency/disaster within the Borough, and on the border of the Borough, to commit staff and resources until such time as the Emergency Committee can meet.
- ~~9-12.~~ To discharge the Council's duties under Civil Contingencies Act 2004.
- ~~10-13.~~ Authority to take any urgent action between meetings in consultation with the Leader

or Deputy Leader, on matters which are outside the scope of powers expressly delegated to any Director or Head of Service.

### Crime and Disorder

~~11.14.~~ To consult with other agencies and with the Chairman of the Crime and Disorder Partnership and Ward Members and to take such action as may be necessary to secure the proper implementation of Orders under the Crime and Disorder Act 1998, or any amendment or re-enactment thereof.

~~12.15.~~ To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000, including exceptional cases where it is likely that knowledge of confidential information will be acquired or where a vulnerable or juvenile Covert Human Intelligent Source is to be used.

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### Complaints

~~13.16.~~ To deal transparently with issues relating to the Commission for Local Administration (Complaints to the Local Government Ombudsman).

~~14.17.~~ To make maladministration payments in consultation with the Leader of the Council up to £2,000.

### Elections

~~15.18.~~ To be the Electoral Registration Officer.

~~16.19.~~ To be the Returning Officer.

~~17.20.~~ To discharge the Councils functions regarding Parliamentary, Local Government (Kent County Council, Borough Council and Parish/Town Council) and European Elections and Referendum.

~~18.21.~~ To make an order under Section 91 of the Local Government Act 1972 to appoint temporary members to Parish Councils.

### Miscellaneous

~~19.22.~~ To take preliminary steps to protect the rights and interests of the Council relating to any White Paper, Bill of Statutory Instrument or Order in Parliament.

~~20.23.~~ Authority to reallocate the delegations to different Directors/Heads of Service as and when required.

~~21.24.~~ To determine arrangements for civic hospitality and transport in consultation with the Leader of the Council.

## DELEGATIONS TO EACH DIRECTOR

1. Authority to write-off any irrecoverable debt not delegated to the Head of Finance and Head of Commissioning and Customer Contact in accordance with the financial regulations.
2. To donate or write-off surplus goods or equipment which are not economically viable to sell.
3. To award contracts for the winning tender in accordance with Contract Standing Orders.
4. On receipt of a detailed report from the relevant Head of Service to approve virement on the approved budget of a cost centre subject to the limitations outlined in the Financial regulations
5. In consultation with the relevant portfolio holder, to authorise waivers to competitive tendering process for the amounts not exceeding the limit set out in Contract Standing Orders.
6. In consultation with the relevant portfolio holder, to authorise the extension of contracts for amounts not exceeding the limit set out in Contract Standing Orders.
7. Authority to appoint staff within the approved establishment. The Chief Executive has delegated authority to the Directors all appointments, discipline and dismissal of staff below Heads of Service within their Directorates.
8. Authority to authorise Occasional or Regular Car User Allowances in accordance with the Council's Conditions of Service.
9. Authority to determine requests for honoraria within their directorate in accordance with the Council's HR policies.
10. To issue requisitions for information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

## **DELEGATIONS TO THE CORPORATE SERVICES DIRECTOR**

1. To be and carry out the duties of the Monitoring Officer in accordance with Section 5 of the Local Government and Housing Act 1989, the Local Government Act 2000 and any other enactments and the Council's Constitution, and to nominate a member of staff to deputise as Monitoring Officer.
2. To be the "proper officer" for the functions designated to the Proper Officer under the Local Government Act 1972; Representation of the People Act 1983; Local Elections (Parishes and Communities) Rules 1986; Local Government and Housing Act 1989.
3. To be the Deputy Electoral Registration Officer.
4. To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000 including cases, in the absence of the Chief Executive, where it is likely that knowledge of confidential information will be acquired or where a vulnerable or juvenile Covert Human Intelligent Source is to be used.
5. To give consent to the exercise by the Police of powers to disperse groups of young persons under Part 5 of the Anti Social Behaviour Act 2003.
6. To deal with issues relating to the Commission for Local Administration (Complaints to the Local Government Ombudsman).
7. To maintain a record of notices of disclosable pecuniary interests and disclosable non-pecuniary interests by any Councillor and personal and prejudicial and personal and non-prejudicial

interests by any Officer and to maintain the register of Councillor's interests and declarations.

8. To report to Council on any requests to approve extended absence of Councillors from any meetings, and the declaration of vacancies of any seats of the Council.
  9. To consider and determine applications from Parish and Town Councillors in respect of declarations of prejudicial interests under Section 94 of the Local Government Act 1972.
  10. To record, hold and administer civic gifts.
  11. To provide information to the public and Councillors about the decision making process and individual decisions.
  12. To maintain the record of officer delegations.
  13. To make any necessary updates to the constitution (as required by law) where there is no discretion.
  14. To be the Petitions Officer.
  15. Receive requests for Call for Action and to place items on the appropriate Scrutiny Committee.
  16. To authorise approval of conference attendance for Members appointed to outside bodies or in connection with their Council responsibilities in consultation with the Leader of the Council.
  17. To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to Officer Delegations to take account of changes in legislation.
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#### Environmental Services

- ~~17-18.~~ To discharge the Council's responsibilities with regard to statutory nuisances.
- ~~18-19.~~ To administer all Port Health matters and monitor and enforce all other matters of public health and environmental health.
- ~~19-20.~~ To appoint inspectors under the Health and Safety at Work etc. Act 1974.
- ~~20-21.~~ To implement and enforce the provisions of the Health and Safety at Work Act 1974 and any others referred to therein, together with any Health and Safety Regulations.
- ~~21-22.~~ To implement the provisions of the Food and Environment Protection Act 1985, the Control of Pesticides Regulations 1986 and of the Food Safety Act 1990 and any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972 and any modifications or re-enactment to the foregoing.
- ~~22-23.~~ To enforce the provisions of the Prevention of Damage by Pests Act 1949.
- ~~23-24.~~ To implement and enforce the provisions of the Environmental Protection Act 1990.
- ~~24-25.~~ To implement and enforce the Environment Act 1995.
- ~~25-26.~~ To enforce the provisions of the Clean Air Act 1993.

- 26.27. To enforce the provisions of the Control of Pollution Act 1974.
- 27.28. To enforce the provisions of the Pollution Prevention and Control Act 1999.
- 28.29. To implement and enforce the provisions of the Noise and Statutory Nuisance Act 1993.
- 29.30. To implement and enforce the provisions of the Environmental Permitting (England and Wales) Regulations 2010<sup>1007</sup>.
- 30.31. To implement and enforce the provisions of the Public Health Acts 1936 and 1961.
- 31.32. To enforce the provisions of The Public Health (Control of Disease) Act 1984.

*NB: The Clinical Director of the Kent Health Protection Unit is appointed as the Proper Officer of the Council to carry out duties under the above Act, the Public Health (Prevention of Tuberculosis) Regulations 1925, the Public Health Act 1936, the Public Health (Ships) Regulations 1979 and any other Regulations made under the Act, and any consultants in Communicable Disease Control, authorised by the Clinical Director, are similarly appointed to act on his behalf.*

- 32.33. To implement and enforce the provisions of the Water Industry Act 1991 and Private Water Supplies Regulations 2009<sup>1994</sup> in relation to private water supplies.
- 33.34. To implement and enforce the provisions of the Building Act 1984.
- 34.35. To enforce the provisions of The County of Kent Act 1981.

36. To implement and enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and 1982.

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- 37. To enforce the provisions of the Land Drainage Act 1991
- 38. To enforce the provisions of the Clean Neighbourhoods and Environment Act 2005  
Part 5, Chapter 1 sections 77 – 79, Chapter 2, section 82 – 86,  
Part 7, Chapter 1 sections 69 – 73,  
Part 9, sections 101 – 105

38. To enforce the provisions of the Environmental Damage (Prevention and Remediation) (England) Regulations 2015

- 39. To enforce the provisions of the Noise Act 1996
- 40. To enforce the provisions of the Anti-Social Behaviour Crime and Policing Act 2014 – Chapter 1 Sections 43 – 93
- 41. To enforce the provisions of the Health Act 2006 – Part 1 Chapter 1.
- 42. To enforce the provisions of the Plant Protection Product Regulations 2011.
- 43. To enforce the provisions of the Plant Protection Products (Sustainable Use) Regulations 2012.

**Miscellaneous**

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- 44. To enforce provisions of the Offices, Shops and Railway Premises Act 1963.
- 45. To arrange burials and cremations pursuant to Section 46 of the Public Health (Control of Disease) Act 1984.

**Licensing**

38464. To carry out all licensing functions in respect of:

- Street trading in licensed streets (the Local Government (Miscellaneous Provisions) Act 1982);
- Premises, club premises, personal licences, provisional statement, Designated Premises Supervisor, Temporary Event Notices in accordance with the Council's Licensing Policy and the Licensing Act 2003;
- Premises, provisional statement, Temporary Use Notices, Game Machine Permits, Lotteries, Prize Gaming Permits, acting as the Responsible Authority and instituting proceedings for non-compliance in accordance with the Council's Gambling Policy and the Gambling Act 2005;
- Street collections (section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (as amended));
- House to House collections (Section 2 of the House to House Collections Act 1939 (as amended); and
- Sex establishments (Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- To act as the "responsible authority" within the meaning of the Licensing Act 2003 and Gambling Act 2005.
- To maintain a register of persons carrying out business as a scrap metal dealer pursuant to the provisions of the Scrap Metal Dealers Act 1964 and 2013.

#### Audit

Please note delegations 47 to 48, will be assigned to the Head of Audit

47. The provision of an adequate and effective system of internal audit of the Council's accounting records and its system of internal control in accordance with the proper practices in relation to internal control as prescribed by the Accounts and Audit Regulations 2015.

48. The maintenance of the Council's Strategic Risk Register and the provision of advice and guidance on the principles and practices of Risk Management.

#### Human Resources

Please note delegations 49 to 63 will be assigned to the Head of Human Resources

#### General

49. To operate the Severance Policy with any redundancies or business cases for enhancements being approved by the appropriate Director or Chief Executive, and signed off by the appropriate Cabinet Member.

50. Enter into agreements with trade unions where implementation does not increase expenditure.

51. Enter into agreements with staff for the purpose of regulating work time.

52. Assimilate staff on appointment, promotion or re-grading.

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53. Grant removal expenses and lodging allowances in accordance with any scheme approved by the Council.

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54. Determination of requests for provision of temporary accommodation for employees.

55. To make changes in accordance with legal requirements and best practice to HR policies and procedures following informal consultation with staff and the agreement of the Cabinet Member for Finance.

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56. Administer the Council's Pension Discretionary Policy.

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**Training - these delegations to be exercised in accordance with HR and Learning and Development policies.**

57. Grant financial assistance for post entry training.

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58. Determination of proposals to attend corporate and service training courses.

59. Determination of proposals for the retention of fees for trainers.

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**Payroll**

60. To implement all negotiated salary or wage awards where no exercise of a discretion is involved.

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61. Administer staff benefits and expenses and review rates annually.

62. To pay salaries, wages, pensions and insurance contributions without reference to Members in accordance with the agreed arrangements.

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63. To make payments in respect of Members' allowances and expenses under Sections 173 to 178 of the Local Government Act 1972, and to keep a register of such payments.

**Miscellaneous**

~~36. 45. To enforce provisions of the Offices, Shops and Railway Premises Act 1963.~~

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~~37. 46. To arrange burials and cremations pursuant to Section 46 of the Public Health (Control of Disease) Act 1984.~~

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**DELEGATIONS TO HEADS OF SERVICE**

1. Authority to approve staffing structures within existing budgets. The Directors have delegated authority to Heads of Service for all appointments, discipline and dismissal of staff within their teams.
2. Authorisation to approve the payment of overtime to members of staff in accordance with the Council's Conditions of Service or the appropriate negotiated conditions within their department.
3. To sign any document needed to implement a decision by, or in the name of, the Council that is within the scope of the powers delegated to.

4. Authority to authorise staff to enter land or premises.
5. To serve statutory notices and arrange for works in default.
6. Authority to spend in accordance with the financial regulations. This includes authority to award contracts that are within the approved budget for the current financial year, having gone through the tendering procedures as set out in contract standing orders. (Relevant Cabinet Members to be kept informed of any waivers granted).
7. Authority to implement new and existing legislation.
8. To respond to consultations on behalf of the Council in consultation with the relevant Cabinet Member where appropriate.

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## DELEGATIONS TO THE HEAD OF LEGAL

**These delegations are subject to the Law Society practice procedures and requirements of the Solicitors Regulation Authority**

### General

1. Authority to sign, or, where necessary, seal, any document needed to implement a decision taken by, or in the name of, the Council, and to authorise other officers to do so and to keep a record.
2. To act as Solicitor to the Council and carry out all related work on behalf of the Council.
3. To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council including cases where the Council considers it expedient for the protection or the promotion of the interests of the inhabitants of the Council's area.
4. On instruction from client departments to settle, if appropriate, and in the interests of the Council any actual or threatened legal proceedings and in consultation where necessary with the relevant statutory officers.
5. To ensure with regard to 3 and 4 above that the early involvement of the Council's External Auditor be sought where appropriate in cases of an unusual and significant nature and that an information report be presented thereafter at the earliest opportunity to the Executive.
6. To instruct Counsel and professional advisors as appropriate and in accordance with the agreed procedures of the Mid Kent Legal Services Partnership.
7. To give legal undertakings and indemnities on behalf of the Council and to keep a register.
8. Under Section 223 of the Local Government Act 1972 to authorise Officers who are not admitted solicitors to appear in Magistrates' Courts on behalf of the Council.
9. Determine procedural arrangements for the issue of all consents, refusals, decisions and notices on behalf of the Council.
10. To accept on behalf of the Council the service of notices, orders and legal procedures.

~~11. To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to Officer Delegations to take account of changes in legislation.~~

~~12.1. To agree changes to membership of Committees throughout the year in consultation with the appropriate Group Leader.~~

### Land and Property

~~13.12. To dispose of any land or any interest in land in accordance with the law, following Member approval.~~

~~14.13. To acquire properties which the Council is under a legal obligation to acquire under planning legislation, following Member approval.~~

~~15.14. To complete all property transactions and contractual arrangements.~~

~~16.15. To make and carry out the statutory notifications and advertisement procedure in relation to Footpath Orders, in accordance with S257 of the Town and Country Planning Act, and where there are no objections, or any objections made are withdrawn, to confirm the Order.~~

### Miscellaneous

~~17.16. To administer the Members Allowance Scheme.~~

~~18.17. To be Data Protection and Freedom of Information Officer and to maintain the Records Retention Scheme and Publication Scheme in respect of the Freedom of Information Act 2000.~~

~~19.18. To maintain a central record of RIPA applications and authorisations in line with RIPA Orders and Codes of Practice.~~

~~20.19. Implement provisions of Environmental Information Regulations 1995.~~

## DELEGATIONS TO THE HEAD OF HUMAN RESOURCES

~~Please note, these will be included under the Director of Corporate Services delegations and he will assign them to the Head of Human Resources~~

### General

~~1. To operate the Severance Policy with any redundancies or business cases for enhancements being approved by the appropriate Director or Chief Executive, and signed off by the appropriate Cabinet Member.~~

~~2. Enter into agreements with trade unions where implementation does not increase expenditure.~~

~~3. Enter into agreements with staff for the purpose of regulating work time.~~

~~4. Assimilate staff on appointment, promotion or re-grading.~~

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- ~~5. Grant removal expenses and lodging allowances in accordance with any scheme approved by the Council.~~
- ~~6. Determination of requests for provision of temporary accommodation for employees.~~
- ~~7. To make changes in accordance with legal requirements and best practice to HR policies and procedures following informal consultation with staff and the agreement of the Cabinet Member for Finance.~~
- ~~8. Administer the Council's Pension Discretionary Policy.~~

~~**Training – these delegations to be exercised in accordance with HR and Learning and Development policies.**~~

- ~~9. Grant financial assistance for post entry training.~~
- ~~10. Determination of proposals to attend corporate and service training courses.~~
- ~~11. Determination of proposals for the retention of fees for trainers.~~

~~**Payroll**~~

- ~~12. To implement all negotiated salary or wage awards where no exercise of a discretion is involved.~~
- ~~13. Administer staff benefits and expenses and review rates annually.~~
- ~~14. To pay salaries, wages, pensions and insurance contributions without reference to Members in accordance with the agreed arrangements.~~
- ~~15. To make payments in respect of Members' allowances and expenses under Sections 173 to 178 of the Local Government Act 1972, and to keep a register of such payments.~~

**DELEGATIONS TO THE HEAD OF FINANCE**

1. To be the Chief Finance Officer and be responsible for the administration of the financial affairs of the Council under Section 151 of the Local Government Act 1972 (as amended); to exercise the duties of the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988; and to discharge functions under the Accounts and Audit Regulations 2011
2. To deal with matters specified by Financial Regulations.
3. Negotiate with the external auditor on the level and type of audit resources required to carry out the statutory and management audit requirements of the Council.
4. To write-off any irrecoverable debt in accordance with the Financial regulations, and the information to be kept in a register.
5. To estimate any collection fund surplus or deficit and to subsequently notify the major precepting authority.
6. To make loans to officers for car purchase and to keep a register of these loans.

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7. To enter into leasing agreements to lease assets for use by the Council as approved by the Capital Programme or Executive.
8. To arrange and review insurance in accordance with the Council's Policy.
9. To raise loans and make investments as and when required.
10. To manage the Council's treasury management activities in accordance with the CIPFA Code of Practice for Treasury management and CLG Guidelines
11. Authorise financial leases in accordance with approved capital financing arrangements.
12. Make arrangements for the collection of income due to the Council.
13. Sign all necessary claim forms in respect of any grants or other funds payable to the Council.
14. To set the Council Tax and Business Rate Base.
15. To publish in a local newspaper, within 21 days, notice of the amount of Council Tax set by the authority in accordance with Section 38 Local Government Finance Act 1992.
16. Exercise responsibility for the accounting arrangements for the operation of the collection fund in connection with the administration of Council Tax and Non-Domestic Rate.
17. Authorise Statutory Returns in connection with Council Tax and Council Tax Benefit, Non-Domestic Rate and Discretionary Housing Payments.
18. Authorise Statutory subsidy calculations and returns in connection with the administration of Housing Benefit.
19. Determine and declare local average interest rates in accordance with legislation and the interest rate for loans to housing associations.
20. Issue, renew or repay temporary loans.
21. Administer matters in respect of mortgages granted by the Council.
22. Authorise the premature repayment of mortgages issued by the Council.
23. Provide financial services either on an agency basis or where required by statute.
24. Authorise persons to act for the Council at company and creditor meetings.
25. Where appropriate to elect for VAT status on particular land or property.

## **DELEGATIONS TO THE HEAD OF AUDIT**

**~~Please note, these will be included under the Director of Corporate Services delegations and he will assign them to the Head of Audit~~**

- ~~1. The provision of an adequate and effective system of internal audit of the Council's accounting records and its system of internal control in accordance with the proper practices in relation to internal control as prescribed by the Accounts and Audit Regulations 2003<sup>15</sup> (amended 2006).~~

~~2. The maintenance of the Council's Strategic Risk Register and the provision of advice and guidance on the principles and practices of Risk Management.~~

## **DELEGATIONS TO THE HEAD OF COMMISSIONING AND CUSTOMER SERVICES**

### **Waste Collection and Disposal**

1. To exercise powers in relation to refuse collection, street cleaning, public conveniences, recycling and minor works.
2. To levy charges regarding the collection and disposal of waste other than household waste, and for the provision of bins and sacks.
3. To implement and enforce the provisions of Part II and Schedule 4 of the Environmental Protection Act 1990.
4. To implement and enforce the provisions of the Public Health Act 1961 regarding the accumulations of rubbish.

### **Seafront and Harbour**

5. To manage and maintain seafront facilities.
6. To grant and to renew licences for pleasure boats and for pleasure boatmen pursuant to the Public Health Acts Amendment Act 1907 (as amended by the Local Government Act 1974) and to dispose of boats and ancillary equipment abandoned or uncollected on any port or foreshore in Council's ownership.

### **Recreation**

7. To manage, maintain and control parks, open spaces, country parks, equipped play areas, outdoor and indoor sports facilities and swimming pools.
8. To let parks and open spaces for sporting and recreation facilities including fairs, exhibitions and displays.
9. To make arrangements for the provision and advertising of leisure and recreation services and events.
10. To deal with petitions in relation to ball games on open spaces in consultation with Ward Members.

### **Cemeteries and Churchyards**

11. To manage and maintain Council owned cemeteries and to maintain "closed churchyards".
12. To exercise powers in relation to the granting of rights of burial, rights to erect memorials and maintenance of graves pursuant to the Local Government Act 1972, Public Health Act 1936 and Local Authorities Cemeteries Order 1977.

### **Parking and Highways Management**

13. To manage, maintain and control off-street parking and to make necessary amendments to the Off Street Parking Order.
14. To manage on-street parking enforcement in accordance with The Road Traffic (Permitted Parking and Special Parking Area) (County of Kent) (Borough of Swale) Order 1999.
15. To agree to the use of car parks for non-commercial use and to temporarily suspend on and off street parking bays.
16. To enforce the provisions of the Road Traffic Regulation Act 1984 and Refuse Disposal (Amenity) Act 1978 regarding the removal of vehicles and any other offence.
17. To enforce the provisions of the Clean Neighbourhoods and Environment Act 2005 in relation to fixed penalty notices for nuisance parking offences.
18. To exercise the Council's powers to provide and maintain footway lighting systems and street naming and numbering.
19. To exercise the power to provide and maintain bus shelters and to give consent to Parish Councils for the erection of seats and shelters.
20. Authority in conjunction with the Head of Legal to make Orders for the closure of highways for a period of 24 hours or less for special purposes under Section 21 of the Town Police Clauses Act 1847.

#### **Hackney Carriage and Private Hire Vehicles**

21. To undertake all functions regarding Hackney Carriage and Private Hire Vehicles in accordance with the relevant provisions of the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

#### **Allotments**

22. To administer allotments and the discharge of related statutory functions.

#### **Contract Standing Orders**

- ~~24.~~ 23. To agree waivers in accordance with Contract Standing Orders.

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#### **Miscellaneous**

- ~~224.~~ In conjunction with the Head of Legal, to serve Notices under section 23 of the Local Government (Miscellaneous Provisions) Act 1976 in relation to dangerous trees.
- ~~253.~~ To implement and enforce the provisions of the Land Drainage Act 1991.
- ~~24.~~ ~~To administer concessionary bus travel permits for the elderly and disabled.~~
- ~~265.~~ To undertake responsibility for the effects of oil pollution on the coast line.

## **DELEGATIONS TO THE HEAD OF ECONOMY AND COMMUNITIES**

### **Corporate Strategy and Communications**

*Swale Borough Council Constitution  
July 2015  
Part 3.4 Officer Delegations*

1. To produce and publish publicity and information material.
2. To manage and coordinate press and media relations.
3. To issue press statements and where appropriate, following discussion with the relevant portfolio holder.
4. To co-ordinate consultation on behalf of the Council. ~~In respect of this proposed amendment, the Head of Corporate Strategy and Communications has concerns regarding the removal of the word 'corporate' as this implies that this covers all consultation which is not the case.~~

### **Community Services**

1. To enable community development services across the Borough.
2. To provide management and administration of local grant schemes and payments in accordance with the agreed policy framework.
3. To manage Community Halls and asset transfer projects.
4. To manage the CCTV partnership agreement and take decisions on service provision
5. To deliver services in accordance with statutory and legislative requirements including Section 17 of the Crime and Disorder Act.
6. To manage the Community Safety Unit.
- ~~7. To manage SBC's involvement in youth services including Swale Youth Forum and Local Children Trust Board.~~

### **Cultural Services**

- ~~8.7.~~ To work in partnership to enable the delivery of arts, heritage and cultural activities in Swale .
- ~~9.8.~~ To manage the preservation and development of cultural and heritage infrastructure.
- ~~10.9.~~ To enable the delivery for sports and physical activities across the Borough.

### **Economic Development and Regeneration**

- ~~11.10.~~ To implement key regeneration projects across the Borough.
- ~~12.11.~~ To enable synergy between the Council, learning providers and local business.
- ~~13.12.~~ To enable the delivery of tourism projects across the Borough.
- ~~14.13.~~ To manage green infrastructure projects and promote biodiversity.

### **Environmental Services**

- ~~14.~~14. To discharge the Council's responsibilities with regard to statutory nuisances.
- ~~15.~~15. To enforce the provisions of the following Acts in relation to the welfare of animals:
- Performing Animals (Regulation) Act 1925;
  - Pet Animals Act 1951;
  - Animal Boarding Establishments Act 1963;
  - Breeding of Dogs Act 1973 and 1991;
  - Riding Establishments Act 1964 and 1970;
  - Dangerous Wild Animals Act 1976;
  - Zoo Licensing Act 1981;
  - Animal Welfare Act 2006;
  - Dogs Act 1871, 1906 and Dangerous Dogs Act 1991; and
  - Dog Control Orders (Clean Neighbourhoods and Environment Act) 2005.
  - Breeding and Sale of Dogs (Welfare) Act 1999
- ~~16.~~16. To enforce the provisions of the Prevention of Damage by Pests Act 1949.
- ~~17.~~17. To implement and enforce the provisions of the Environmental Protection Act 1990.
- ~~18.~~18. To implement and enforce the Environment Act 1995.
- ~~19.~~19. To enforce the provisions of the Clean Air Act 1993.
- ~~20.~~20. To enforce the provisions of the Control of Pollution Act 1974.
- ~~21.~~21. To implement and enforce the provisions of the Noise and Statutory Nuisance Act 1993.
- ~~22.~~22. To implement and enforce the provisions of Part 6 of the Antisocial Behaviour Act 2003.
- ~~23.~~23. To enforce the provisions of the Noise Act 1996.
- ~~24.~~24. To implement and enforce the provisions of the Criminal Damage Act 1971, the Antisocial Behaviour Act 2003, Part IV of the Environmental Protection Act 1990 and the Town and Country Planning Act 1990 in relation to graffiti, littering and fly posting.
- ~~25.~~25. To implement and enforce the provisions of the Clean Neighbourhood Act 2005.
- ~~26.~~26. To enforce the provisions of the Control of Pollution Amendment Act 1989 and the Environmental Protection (Duty of Care) Regulations 1991 regarding transport of waste.
- ~~27.~~27. To implement and enforce the provisions of the Environmental Permitting (England and Wales) Regulations 2007.
- ~~28.~~28. To implement and enforce the provisions of Part II and Schedule 4 of the Environmental Protection Act 1990.

- ~~30-29.~~ \_\_\_\_\_ To enforce the provisions of the Health Act 2006 relating to smoke-free offences. |
- ~~31-30.~~ \_\_\_\_\_ To enforce the provisions of The County of Kent Act 1981. |
- ~~32-31.~~ \_\_\_\_\_ To implement and enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and 1982. |
- ~~33-32.~~ \_\_\_\_\_ To administer the Waste to land (Use in Agriculture) Regulations 1989. |
- ~~34-33.~~ \_\_\_\_\_ To enforce the provisions of S3-6 of the Refuse Disposal Amenity Act 1978, Part VIII of the Road Traffic Regulations Act 1984 and The Removal and Disposal of Vehicles (England) (Amended) Regulations 2002. |
- ~~35-34.~~ \_\_\_\_\_ To implement and enforce the provisions of S235-238 of Part XI of the Local Government Act 1972 in relation to the enforcement of Byelaws. |
- ~~36-35.~~ \_\_\_\_\_ To implement and enforce the provisions of Parts 1, 2, 4, 6, 7 and Part 11 S154 only of the Anti-Social Behaviour, Crime and Policing Act 2014. |

#### **Gypsy Sites and Unlawful Encampments**

- ~~376.~~ To monitor the number of gypsies/land travellers, legally and illegally encamped within the Borough and to maintain a continuing dialogue with the Kent County Council over gypsy site provision.
- ~~387.~~ To issue Notices in relation to the removal of gypsies on the highway under the Highways Act 1980 and from Council owned land under the Criminal Justice and Public Order Act 1994.

#### **Miscellaneous**

- ~~39.~~ ~~To maintain a list of senior nominated officers regarding establishment arrangements for the protection and safeguarding of children and vulnerable adults.~~ |
- ~~3840~~ **To enter into agreements and contracts for the supply of goods and services in connection with the service** |
- ~~3944.~~ To enable the delivery of markets on Council owned sites by working with market cooperatives in Faversham, Sheerness and Sittingbourne. |
- ~~402.~~ To enforce the provisions of the Sunday Trading Act 1994 and to enforce any breaches of street trading under the Local Government (Miscellaneous Provisions) Act 1982. |
- ~~413.~~ To exercise the Council's power to secure unoccupied buildings under the provisions of the Local Government (Miscellaneous Provisions) Act 1982. |
- ~~424.~~ To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000, excluding cases where it is likely that knowledge of confidential information will be acquired or where a vulnerable or juvenile Covert Human Intelligent Source is to be used. |

43. To implement the provisions of the Counter Terrorism and Security Act 2015

44. To implement the provisions of the Modern Slavery Act 2015

45. To implement the provisions of the Childrens Act 2004

## DELEGATIONS TO THE HEAD OF HOUSING

### Housing

1. To implement and enforce the provisions of the Housing Act 1985 (as amended) and the Housing Act 2004 in relation to demolition orders, housing conditions, licensing of houses in multiple occupation and additional control provisions in relation to residential accommodation including overcrowding.
2. Power to approve disabled facilities grants in accordance with statutory criteria and authority to allow applicants to start work before grants are approved pursuant to Part I of the Housing Grants Construction and Regeneration Act 1996 (as amended).
3. To implement the provisions of Article 3 of the Regulatory Reform Act (Housing Assistance) (England and Wales) Order 2002 with power to provide housing assistance in accordance with the Council's published policy and grant/loan conditions, and power in consultation with the Cabinet Member for Housing to recover the grant in total or in part where a house is sold within five years.
4. To implement the provisions of Part VI of the Housing Act 1996 (as amended).
5. To enter into agreements for the supply of goods and services in connection with grant and financial assistance schemes.
6. To promote group repair and renewal schemes.
7. To adopt the power given in the Localism Act 2011 to discharge Homelessness Duty into the Private Rented Sector.

### Homelessness

8. To implement the provisions of Part VII of the Housing Act 1996 (as amended) in relation to processing and determining all homeless applications.

### Council Tax and Non-Domestic Rates

9. To exercise all of the Council's powers and duties to bill, administer and collect the Council Tax and Non-Domestic Rates .
10. Pursuant to Section 101 of the Local Government Act 1972, to issue enforcement proceedings including making complaints on behalf of the Swale Borough Council in the Magistrates Court under the following Regulations: -
  - The Community Charges (Administration and Enforcement) Regulations 1989;
  - The Community Charges (Administration and Enforcement) (Amendment) Regulations 1989;
  - Community Charges (Co-Owners) Regulations 1990 (as amended);
  - Non-Domestic Rating (Collection and Enforcement) (Miscellaneous Provisions) Regulations 1990 (as amended);

- Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 (as amended);
  - any other further regulations issued by the Secretary of State for the Environment under the Local Government Finance Act 1988 (Schedule 9);
  - The Council Tax (Administration & Enforcement) Regulations 1992 (as amended); and
  - any further regulations issued by the Secretary of State for the Environment under the Local Government Finance Act 1992 (Schedule 4).
11. To write off any irrecoverable debt in respect of Council Tax, Non-Domestic Rates and Housing Benefit Overpayments in accordance with the Financial regulations and the information to be kept in a register.
  12. To appear on behalf of the Council at a Valuation Tribunal.
  13. To consider applications for non-domestic rate relief from charitable and other organisations pursuant to Sections 43 and 47 of the Local Government Finance Act 1988.
  14. To consider applications for the reduction and remission of rates pursuant to section 49 of the Local Government Finance Act 1988.
  15. To write-off any irrecoverable debt in the case of council tax, business rates or housing benefit overpayments in accordance with the Financial Regulations, and the information to be kept in a register.

#### **Housing and Council Tax Benefit**

16. To exercise all of the Council's powers and responsibilities for Housing and Council Tax Benefits, including the payment of benefits and the determination of discretionary payments.
17. To administer rent rebates for Local Authority tenants and rent allowances for Private/Housing pursuant to Section 134 of the Social Security Administration Act 1992 (as amended).

#### **Caravans**

18. To implement and enforce the provisions of the Caravan Sites and Control of Development Act 1960.

#### **Public Health**

19. To implement and enforce the provisions of the Public Health Act 1936 and 1961.
20. To implement and enforce the provisions of the Water Industry Act 1991 in relation to private water supplies.

#### **Buildings**

21. To implement and enforce the provisions of the Building Act 1984.
22. To enforce the provisions of Part XI of the Local Government (Miscellaneous Provisions) Act 1982.
23. To implement and enforce the provisions of the Water Act 1989.

#### **Drainage**

- 24. To implement and enforce the provisions of the Land Drainage Act 1991.
- 25. To enforce the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

**Pests**

- 26. To implement and enforce the provisions of the Prevention of Damage by Pests Act 1949.

**Miscellaneous**

- 27. To implement and enforce the provisions of Part III of the Environmental Protection Act 1990.
- 28. To enforce the provisions of The County of Kent Act 1981.

**DELEGATIONS TO THE HEAD OF PLANNING**

**Development Control**

- 1. To determine applications, to agree minor variations to planning obligations, to respond to prior notifications and to make observations on behalf of the Borough Council in accordance with the provisions of the appropriate Development Plan or other adopted Borough Council Planning Policy Guidance.
- 2. The delegated powers in paragraph 1 above shall not be exercised in the following circumstances:
  - (a) applications where the decision of the Head of Planning would conflict with any written representation received within the specified representation period from:
    - (i) any Member of the Borough Council;
    - (ii) a statutory consultee; or
    - (iii) a Parish or Town Council;
 provided that any such representations from (ii) or (iii) above are, in the opinion of the Head of Planning based upon relevant planning considerations. .
  - (b) applications where the decision of the Head of Planning would conflict with letters of representations, or petitions, from at least three separate addresses received within the specified representation period from persons or bodies (other than those set out in (a) above) provided that any such representations are, in the opinion of the Head of Planning, based upon relevant planning considerations and a relevant Ward Member requests that the application should be reported to the Planning Committee  
(see 2 (i) above)
  - (c) applications submitted by Members of the Council and Members of Staff; and
  - (c) applications which the Head of Planning considers are sufficiently major or raise difficult questions of policy interpretation or any unusual or difficult issues which warrant Member determination.

**Trees, Hedgerows and High Hedges**

- 3. To respond to notifications under the Town and Country Planning Act 1990 of intention to cut down, uproot, top or lop a tree within a Conservation Area or for trees covered by Tree Preservation Orders.
- 4. To determine Felling Licence applications.

5. To make and confirm, where there are no objections, Tree Preservation Orders.
6. Refusals of permission to cut down trees and approvals to lopping, silvicultural thinning of woodlands and routine cutting of coppice woodland not affecting draw trees.
7. Authority under Regulation 12 of the Hedgerows Regulations 1997 (as amended) and Section 214B of the Town and Country Planning Act 1990 (as amended) to enter onto land.
8. To respond to hedgerow notifications in consultation with the appropriate Ward Member(s).
9. Subject to consultation with the Head of Legal, to serve notices relating to dangerous trees, in accordance with Section 23 of the Local Government (Miscellaneous Provisions) Act 1976.
10. To consider and determine the Council's response to the formal complaints in relation to high hedges, to issue remedial notices and determine all other matters in relation to high hedges in accordance with Part 8 of the Anti-Social Behaviour Act 2003.

#### **Enforcement**

11. To serve Enforcement Notices and/or to issue "breach of condition notices" to secure compliance with planning conditions.
12. To serve Notices under the Town and Country Planning Act 1990 requiring the proper maintenance of land and the removal or obliteration of any placard or poster.
13. To make representations on behalf of the Council where appropriate to the granting or variation of Goods Vehicle Operators Licences under Section 12 of the Goods Vehicles (Licensing of Operators) Act 1995.
14. In cases of urgency between meetings to serve a "Stop Notice", a "Temporary Stop Notice" an Enforcement Notices or a Listed Building Enforcement Notice (following consultation with the Chairman or the Vice-Chairman of the Planning Committee and a relevant Ward Member).
15. To serve a requisition for information under Section 330 of the Town and Country Planning Act 1990.

#### **Conservation of Historic Environment**

16. In cases of extreme urgency between meetings to to serve a Building preservation Notice under Section 3. of the Planning (Listed Buildings and Conservation Areas) Act 1990.
17. To serve Urgent Works Notices and carry out works where it is considered urgently necessary for the preservation of a listed building.
18. To input to consultations by Church Authorities under the Ecclesiastical Exemption Regulations.

#### **Miscellaneous**

19. To exercise powers of entry in accordance with Sections 196A and 324 of the Town and Country Planning Act 1990 (as amended) and Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
20. To screen and scope Environmental Impact Assessments, in accordance with The Town and

Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

21. To determine applications for Certificates of Lawful Use or Development.
22. To carry out consultations under the procedure set out for minor developments by Government departments.
23. To accept non-material amendments to approve schemes including minor amendments to conditions and planning obligations
24. To approve details reserved in conditional permissions (facing materials, landscaping, joinery details etc.)
25. To determine whether an applications should not be considered in outline.
26. To serve notices requiring information regarding disposal of waste pursuant to Section 93 of the Control of Pollution Act 1974.
27. To act as "responsible authority" within the meaning of the Licensing Act 2003 and Gambling Act 2005.
28. To implement the provisions of the Environmental Assessment of Plans and Programmes Regulations 2004.
29. To authorise officers to apply for judicial approval and to undertake surveillance under the Regulation of Investigatory Powers Act 2000, excluding cases where it is likely that confidential information will be acquired.
30. To be responsible for the Council's Building Control function by way of representation at the Joint Committee of the South Thames Gateway Building Control Partnership.
31. To implement and enforce the provisions of the Antisocial Behaviour Act 2003 in relation to high hedges and miscellaneous powers.

## **DELEGATIONS TO THE HEAD OF PROPERTY**

### **General**

1. To enter into all 'de-minimis' Agreements, eg. minor wayleaves, easements, rights of way, temporary occupation of land, tenants-at-will etc.
2. To negotiate and agree terms for the modification, variation or release of covenants contained in conveyances and transfers in accordance with any relevant provisions contained within the Asset Management Strategy, the Asset Transfer Policy and Disposals Policy.
3. To deal with Blight Notices ensuring final compensation where the notices have been accepted by the Council for conveyancing purposes.
4. To approve disturbance payments, etc. other than payments in respect of well maintained houses.
5. To finalise negotiations in the case of confirmed Compulsory Purchase Orders.
6. To deal with applications for the sale of sub-station sites.

7. To deal with applications for the sale and purchase of land where the proposed consideration does not exceed £10,000 or where the land is to be sold or purchased on behalf of the Kent County Council.
8. To assign leases, subject to the normal investigation of the financial abilities of the new leases and to those cases also requiring a change of the approved use being determined, in consultation with the Cabinet Member for Finance.
9. To terminate or accept the surrender of a leasehold interest in land where it is of benefit to the Council.
10. To approve rent reviews and lease renewals up to a maximum increase of £7000 or 20% per annum whichever is the greater amount.
11. To enter into leases for less than seven years or to enter into leases where the annual rent is less than £3000.
12. To retain agents to advise upon terms for sales, leases, purchases, easements, compensation claims and similar matters or otherwise in connection therewith.
13. To negotiate the terms of, and authorise the granting of, landlords licences and consents and variations under existing leases.
14. To carry out any site investigation where he/she considers it necessary whether upon the commencement of negotiations or acquisition or otherwise.
15. To apply for planning permission for the development of any land or property and to make any other application under planning legislation.

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