

HENLEY-ON-THAMES TOWN COUNCIL



SCHEME OF DELEGATION

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SCOPE OF THE POLICY

With a few statutory exceptions, only the Full Council is able to make decisions on behalf of the corporate body, *unless* it makes explicit provision to delegate powers to either a committee or officer (or in some cases, another authority). These delegated powers are often enshrined in the Council's key governance documents – its Standing Orders, Financial Regulations, and committee terms of reference – as well as other policies. The purpose of the Scheme of Delegation is to consolidate these delegated powers into one document:

- providing a single point of reference to inform decision-making;
- ensuring that there is no conflict between different governance documents;
- clarifying lines of accountability;
- and confirming where statutory responsibilities sit.

WHAT AND WHO IS COVERED BY THE POLICY

The policy comprehensively covers all aspects of the Council decision-making process, and it is therefore intended as a key reference document for all staff and councillors, particularly: the Mayor and committee chairs; committee administrators; budget holders; and the Town Clerk.

It should also be publicly available and published online to provide those members of the community attending Council meetings with a guide to how the Council makes decisions.

LEGAL FRAMEWORK

A Scheme of Delegation is considered best practice by the National Association of Local Councils, and is a requirement for Council seeking Quality Award status.

The Council's statutory power to delegate its functions is laid down in Local Government Act (LGA) 1972 s101. This states that power can be delegated to a committee, sub-committee, or officer of the authority, or to another authority.

By virtue of the absence of any provision in s101, town and parish councils cannot be delegated to an individual councillor. However, when acting as the chair of a meeting, a councillor has *ex officio* powers to regulate conduct in the meeting, as discussed below.

Where powers are delegated to a committee, the primary source of best practice on how they are delegated and exercised is *Knowles on Local Authority Meetings* (McCourt, 8th Edn, 2016), as discussed below.

1. Full Council

- 1.1 The following matters are reserved to the Council for decision, notwithstanding that the appropriate committee(s) may make recommendations for the Council's consideration:
- a) Approving the annual budget and setting the precept.
 - b) Approving the annual return, and internal audit reports.
 - c) Authorising all borrowing.
 - d) Adopting and making any amendments to the Standing Orders, Financial Regulations, Scheme of Delegation, or Policy Framework.
 - e) Making orders under any statutory powers.
 - f) Making, amending, or revoking by-laws.
 - g) Establishing committees and determining their terms of reference and membership.
 - h) Appointing or co-opting to a committee or sub-committee of a person not a member of the Council or the committee.
 - i) Appointing or nominating Council representatives to outside bodies.
 - j) Creating, approving, or reviewing a neighbourhood plan.
 - k) Declaring eligibility for the General Power of Competence.
 - l) Appointing and dismissing the Town Clerk.
 - m) The decision to prosecute or defend in a court of law, save where such a prosecution is of a debtor being carried out through the small claims court.
 - n) All other matters which must, by law, be reserved for the Full Council.
 - o) Approving all expenditure not otherwise delegated to a committee or officers, in accordance with the Schedule of Financial Approval Limits.

2. Town Clerk

2.1 The Town Clerk acts as the Council's *Proper Officer* and *Responsible Finance Officer* (under s.151 LGA 1972), and is responsible for all statutory duties imposed upon these two offices. These include:

- a) Receiving declarations of acceptance of office.
- b) Retaining a copy of every councillor's register of interests.
- c) Signing notices or other documents on behalf of the Council (other than legal and financial documents requiring the signatures of members of the Council).
- d) Signing summonses to attend meetings of the Council.
- e) Keeping a proper record for all meetings.
- f) Ensuring the Council meets its obligations in accordance with the Accounts and Audit Regulations in force at the time.
- g) The proper administration of the Council's financial affairs, including ensuring the Council has an adequate and effective system of internal control.
- h) Producing all financial management information, including, completing the annual financial statements of the Council.

2.2 In addition, the Town Clerk has the delegated authority to undertake the following matters on behalf of the Council:

- a) The day-to-day administration of services, together with routine inspection and control of assets and procedures.
- b) Managing all Council staff, directly or indirectly, including the recruitment to any existing post on a like-for-like basis, where such post is not a member of the Senior Management Team.
- c) Authorising any expenditure delegated in the Schedule of Financial Approval Limits.
- e) Postponing a meeting, or calling an additional meeting of the Council or any committee, as necessary, in consultation with the Mayor of the Council or appropriate committee.
- f) Responding to any correspondence requiring or requesting information, or relating to previous decision of the Council, but not correspondence requiring an opinion to be taken by the Council or its committees.
- g) Managing the provision of Council services, buildings, land, and resources (indirectly where service managers have delegated responsibility), including the temporary closure of any such facilities, as may be required.

- h) Dealing with dispensation requests from members, under the Code of Conduct.
 - i) Dealing with all day-to-day staffing and disciplinary matters, in accordance with the Council's Staff Handbook.
 - j) Prosecuting a debtor, where such prosecution is through the small claims process, or approving the write off of any debt up to the value laid down in the Schedule of Financial Approval Limits.
 - k) Authorising the issue of all official Town Council press releases, and editorial control of the Council's website and social media content.
 - l) Applying for any grants and other funding on the Council's behalf.
 - m) Disposing of or selling any equipment or consumables, save where the estimated value of any one item of tangible movable property exceeds any amount laid down in the Schedule of Financial Approval Limits.
 - n) Renewing any existing leasing or licencing agreements, save where the estimated value exceeds any amount laid down in the Schedule of Financial Approval Limits, or where the lease term exceeds one year.
 - n) Entering into negotiations on any matter on behalf of the Council, it being understood that the Town Clerk shall not be authorized to confirm any agreement without the consent of the Council or relevant committee.
 - o) Dealing with such matters as specifically delegated by the Council or committee.
 - p) Applying the Council's common seal to a deed required by law, in the presence of two members of the Council.
 - q) Delegating duties to a subordinate officer, save where such duties are required to be carried out directly by the Proper Officer or Responsible Finance Officer, by statute, or Council direction.
- 2.3 All delegation of duties is at the discretion of the Council, save where such delegation is required by statute.
- 2.4 In the absence of the Town Clerk, the Deputy Clerk is authorised carry out the duties laid down in 2.2, where it is required for expediency, or as a matter of urgency.

3. Mayor

3.1 No matter may be delegated to the Mayor except for the following:

- a) Convening an extraordinary meeting of the Full Council.
- b) Receiving the resignation of any member.
- c) When attending a Full Council meeting, the powers granted to a chair of a meeting.
- d) Attending a civic function as a representative of the Council, it being understood that the contents of any speeches must not purport to being the view of the Council unless previously agreed.

4. Chair of a meeting

4.1 When a councillor acts in the role of the chair of a meeting, they shall have the power to:

- a) Convening an extraordinary meeting of the relevant Council or committee.
- b) Direct the order of speaking.
- c) Direct any response to a question posed during public participation.
- d) Permitting an individual to be seated whilst speaking.
- e) Suspending or closing a meeting .
- f) In the case of an equality of votes on any matter, exercising a casting vote.
- g) Determining the rules of debate, in accordance with the Council's Standing Orders.
- h) Determining a point of order.
- i) Putting a motion to the vote.
- j) Signing the minutes of a previous meeting, once confirmed by a resolution as an accurate record.
- k) Moving that a person be silenced or excluded from the meeting for disorderly conduct.

5. Councillors

5.1 No matter may be delegated to an individual councillor, except that:

- a) Two councillors may convene an extraordinary meeting of the Council, should the Mayor refuse to do so.
- b) The Mayor and Deputy Mayor shall act informally as line managers for the Town Clerk.
- c) Matters may be delegated to an officer to determine *in consultation* with one or more councillors, it being understood that the officer shall not overrule any reasonable request of that member(s), but that the officer's decision shall be final.
- d) A councillor may arrange or attend a meeting regarding Council business, it being understood that any representations made by the councillor are in their personal capacity, and may not represent the views of the Council.
- e) A councillor may assist in discharging any Council policy or procedure, if it is expressly permitted in the policy, or if prior approval from the relevant person has been obtained.
- f) No councillor may issue an instruction to an officer, but may highlight any issue that they believe requires the attention of the Council. Any issue regarding staff performance may only be raised with the Town Clerk or through the appropriate committee.

6. Committees

- 6.1 Under the Local Government Act 1972 s101, the Council may appoint committees to undertake any of its functions not described in item 1.1 above.
- 6.2 Best practice on the constitution of committees states that:
- “there should be no more standing committee than are necessary, the membership of the committees should be small, their terms of reference should be clearly specified, and their relationship to the rest of the decision-making structure clearly defined. Each committee should be concerned with matters that can only be dealt with at member level, i.e. there should ordinarily be no involvement in matters of day-to-day administration and operation business that is properly the responsibility of officers.” (McCourt, 2016, p.211)
- 6.3 A committee may not comprise fewer than three voting members (McCourt, 2016, p.226).
- 6.4 Where any member is deemed an ex officio member of any committee, they are a full member of that committee, unless expressly stated otherwise (McCourt, p.224).
- 6.5 Any committee established for the controlling of the Council’s finances, must be solely comprised of councillors (Local Government Act 1972, s.102).
- 6.6 On the terms of reference:
- “[they] should cover the whole of the council’s area of operations, but should be so drawn that one set of terms does not overlap another... most authorities provide for the terms of reference of an appropriate committee to include responsibility for ‘any matter not delegate to... any other... committee.’” (McCourt, 2016, p.227)
- 6.7 LGA 1972 s.101(2) states that unless otherwise stated, where a power has been delegated to a committee, that committee can arrange for a sub-committee or officer to discharge those powers.
- 6.8 The terms of reference must also not contradict any provision made in the Council’s Standing Orders or Financial Regulations, which shall take precedence where there is any conflict.
- 6.9 ‘Standing committees’ is a term used to simply to refer to committees set up ‘year after year’ (McCourt, 2016, p.212) and they have no statutory or special position of authority.
- 6.10 On the following pages are the terms of reference for each of the Council’s four standing committees: *Finance Strategy and Management; Planning; Recreation and Amenities; and Town and Community.*
- 6.11 There is concern that where contentious issues are raised, there should be a mechanism for these to be referred to the Full Council. Therefore, a clause has been added to all committee terms of reference, that where an item is delegated to the committee, but a resolution is not passed by at least a two-thirds majority, the item is referred to the Full Council with a recommendation agreed upon by a simple majority.

FINANCE STRATEGY & MANAGEMENT COMMITTEE TERMS OF REFERENCE

1. Membership

- 1.1 The Committee will consist of 10 councillors, including the Mayor and Deputy Mayor (ex officio). No non-councillor members may be appointed to the committee.

2. Quorum

- 2.1 The Quorum for the Committee shall be 5 members.

3. Purpose

- 3.1 The Finance Strategy and Management Committee is established to consider all matters relating to the finances, strategy, policy, and corporate governance of the Council.

4. Remit

The Committee shall have the power to:

- 4.1 Determine all staffing matters other than those delegated to the Town Clerk, including changes in staffing numbers and structure.
- 4.2 Determine all grant applications and applications for free use of Council resources, up to any value laid down in the Schedule of Financial Approval Limits.
- 4.3 Consider and approve all policy matters other than those reserved by law for the Full Council, or delegated to another committee.
- 4.4 Establish, monitor, and determine the membership and terms of reference of any sub-committee required to carry out any of its functions.
- 4.5 Appoint the Council's internal auditor.
- 4.6 Appoint the Council's legal, HR, IT, and investment services providers.
- 4.7 Request, receive and review all financial statements, including management accounts, investment fund reports, payment summaries, and draft budgets.
- 4.8 Determine the Council's budget setting timetable.
- 4.9 Authorise the write off of bad debts up to the value laid down in the Schedule of Financial Approval Limits, other than those delegated to the Town Clerk.

- 4.10 Authorise any capital expenditure not delegated to another committee.
- 4.11 Authorise the virement of any budget line up to the value laid down in the Schedule of Financial Approval Limits.
- 4.12 Dispose of or purchase of any equipment, land, or other property not delegated to the Town Clerk or another committee, up to the value laid down in the Schedule of Financial Approval Limits.
- 4.13 Action any matters specifically referred by the Full Council.
- 4.14 Action all matters not specifically referred or delegated to any other committee, other than those reserved by law for the Full Council.
- 4.15 Where any of the above items cannot be agreed upon by the Committee with at least a two thirds majority of those present and voting thereon, the item shall be referred to the Full Council with a recommendation agreed upon by a simple majority. For clarification, 6/3 is a two-thirds majority; 5/3 is not; 2/1 is.

The Committee shall make recommendations to the Full Council on:

- 4.16 Amendments to the Council's Standing Orders, Financial Regulations or Scheme of Delegation.
 - 4.17 The Council's draft budget and precept figures.
 - 4.18 Any borrowing.
 - 4.19 Whether to prosecute or defend in a court of law, other than any matters delegated to the Town Clerk.
 - 4.20 The acceptance of any internal audit report.
 - 4.21 The making, amending, or revoking of by-laws.
 - 4.22 The disposal or purchase of any equipment, land, or other property exceeding the values delegated to the Committee in the Schedule of Financial Approval Limits.
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PLANNING COMMITTEE TERMS OF REFERENCE

1. Membership

- 1.1 The Committee will consist of 8 members, including the Mayor and Deputy Mayor (ex officio).

2. Quorum

- 2.1 The Quorum for the Committee shall be 4 members.

3. Purpose

- 3.1 The Planning Committee is established to determine the Council's responses to all planning applications on which the Council consulted, and consider all matters relating to planning policy, infrastructure, and development.

4. Remit

The Committee shall have the power to:

- 4.1 Determine the Council's response to, and monitor, all planning, tree preservation order, street name, and listed building consent applications on which the Council is consulted.
- 4.2 Establish, monitor, and determine the membership and terms of reference of the Neighbourhood Planning Committee, Transport Strategy Group, and Climate Emergency Working Group, and any other sub-committee established for the discharge of its functions.
- 4.3 Control all expenditure on any revenue budget item, or capital or grant-funded project, falling within the Committee's remit, up to any limit laid down in the Schedule of Financial Approval Limits.
- 4.4 Determine the Council's response to any highways, transport, car parking or other issues, which are the responsibility of other local authorities.
- 4.5 Approve any policies delegated to Committee in the Council's Policy Framework.
- 4.6 Where any of the above items cannot be agreed upon by the Committee with at least a two-thirds majority of those present and voting thereon, the item shall be referred to the Full Council with a recommendation agreed upon by a simple majority. For clarification, 6/3 is a two-thirds majority; 5/3 is not; 2/1 is.

The Committee shall make recommendations to:

- 4.7 The Council or Finance Strategy and Management Committee, as appropriate, for all expenditure for items falling under the Committee's remit that exceed the values laid down in the Schedule of Financial Approval Limits.

- 4.8 The Council on the adoption of any amendments to the Neighbourhood Plan.
- 4.9 The Council on the development or disposal of any Town Council land in order to further the objectives of the Neighbourhood Plan.
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RECREATION AND AMENITIES COMMITTEE TERMS OF REFERENCE

1. Membership

- 1.1 The Committee will consist of 9 members, including the Mayor and Deputy Mayor (ex officio).

2. Quorum

- 2.1 The Quorum for this Committee shall be 5 members.

3. Purpose

- 3.1 The Recreation and Amenities Committee is established to oversee all matters relating to the Council-owned open spaces, any infrastructure on those spaces, and other Council-owned horticultural features, including hanging baskets, and planters.

4. Remit

The Committee shall have the power to:

- 4.1 Determine all issues not otherwise delegated to an officer, regarding the management of the Council-owned open spaces and other horticultural features, including, but not limited to: Mill Meadows including car parking and moorings, Marsh Meadows, Freemans Meadow, Makins Recreation Ground, Gillotts Field, allotments, 40 Acre Field, Fairmile Cemetery, Jubilee Park, Gravel Hill Amenity Area, Singers Park, and the Fairmile verges.
- 4.2 Control all expenditure on any revenue budget item, or capital or grant-funded project, falling within the Committee's remit, up to any limit laid down in the Schedule of Financial Approval Limits.
- 4.3 Approve any policies delegated to Committee in the Council's Policy Framework.
- 4.4 Establish, monitor, and determine the membership and terms of reference of any other sub-committees for the discharge of its functions.
- 4.5 Where any of the above items cannot be agreed upon by the Committee with at least a two thirds majority of those present and voting thereon, the item shall be referred to the Full Council with a recommendation agreed upon by a simple majority. For clarification, 6/3 is a two-thirds majority; 5/3 is not; 2/1 is.

The Committee shall make recommendations to:

- 4.6 The Council or Finance Strategy and Management Committee, as appropriate, for all expenditure for items falling under the Committee's remit that exceed the values laid down in the Schedule of Financial Approval Limits.

TOWN AND COMMUNITY COMMITTEE TERMS OF REFERENCE

1. Membership

- 1.1 The Committee will consist of 10 members, including the Mayor and Deputy Mayor (ex officio).

2. Quorum

- 2.1 The Quorum for this Committee shall be 5 members.

3. Purpose

- 3.1 The Town and Community Committee is established to oversee all matters relating to the Council's presence in the town centre, and its relationships within the community.

4. Remit

The Committee shall have the power to:

- 4.1 Determine all issues not otherwise delegated to an officer, regarding the management of the Council-owned town centre assets including, but not limited to, the Town Hall, Visitor Information Centre, Kings Arms Barn, Old Fire Station Gallery, 60+ Club, and Market Place.
- 4.2 Determine all issues, not otherwise delegated to an officer, regarding the Town Council-run events and tourism initiatives; the visual amenity of the town centre, including bunting, lights, decorations, and street cleaning; communication and relationships with the community including residents, business and local organisations; and crime and safety in the town centre.
- 4.3 Approve any policies delegated to Committee in the Council's Policy Framework.
- 4.4 Establish, monitor, and determine the membership and terms of reference of any other sub-committees for the discharge of its functions.
- 4.19 Where any of the above items cannot be agreed upon by the Committee with at least a two thirds majority of those present and voting thereon, the item shall be referred to the Full Council with a recommendation agreed upon by a simple majority. For clarification, 6/3 is a two-thirds majority; 5/3 is not; 2/1 is.

The Committee shall make recommendations to:

- 4.6 The Council or Finance Strategy and Management Committee, as appropriate, for all expenditure for items falling under the Committee's remit that exceed the values laid down in the Schedule of Financial Approval Limits.

SCHEDULE OF FINANCIAL APPROVAL LIMITS

	Town Clerk	Standing committee*	FSM Committee	Full Council
Budgeted revenue expenditure	Up to £5k per item	£5k to £20k per item per year	Over £20k per item per year	
Unbudgeted revenue expenditure	Up to £5k in emergency		£5k to £20k	Over £20k
Budget virement		Up to £10k with committee budget	Over £10k and all cross-committee virement	
Capital expenditure		Up to £20k from earmarked funds	£20-100k from earmarked funds	Over £100k or any non-earmarked item
Grant awards			Up to £20k per item per year	Over 20k per item per year
Bad debts	Under £1k		£1k to £10k	Over £10k
Disposal of equipment	Up to £500 value per item		£500 to £20k value per item	Over £20k value per item
Sale or purchase of land or buildings				Any amount
Lease or licence of land or buildings	Up to £5k per item per year		Over £5k per item per year	
Expenditure from grant receipts		Up to £20k	£20k to £100k	Over £100k
Expenditure from CIL or s106 receipts			Up to £20k per item	Over £20k per item
Amendment of investments			Up to £100k	Over £100k

* I.e. the standing committee responsible for the item for which the budget / grant / or earmarked reserves are allocated

For expediency, the Full Council may approve any such matter usually delegated to a committee.