

**Audit and Standards Committee – Monday 16 September 2013
County Council – Thursday 10 October 2013**

**Proposed Changes to the Constitution –
Scheme of Delegation to the Director for Place and Deputy Chief
Executive**

Recommendations

1. That Council be recommended to make the amendments to Table 5 of the Officer Scheme of Delegation (Section 11 Appendix 1 of the Constitution) as outlined in this report.

Report of the Director for Democracy, Law and Transformation

Report Summary

- 1.1. The County Council's Constitution includes Schemes of Delegation to members of the Senior Leadership Team. In turn, those delegations are cascaded down to officers in each service area through sub-delegation schemes.
- 1.2. The Scheme of Delegation for the Director for Place and Deputy Chief Executive was approved by Full Council in May 2011. At that time a full review of the majority of officer delegations had been carried out as the Council moved to a new operating model. A copy of the current scheme is attached at appendix 2.
- 1.3. Recent work on the sub-delegation scheme for Place has highlighted the need to amend a number of the existing delegations, mostly to remove any ambiguity. In addition a small number of new delegations are requested. All proposed changes are scheduled at appendix 3.
- 1.4. The delegations are necessary to enable officers to carry out their day to day responsibilities.

2.0 Equalities Implications

2.1 None

3.0 Legal Implications

3.1 Changes are requested where ambiguity provides the opportunity to challenge decisions made on services delivered by PLACE.

4.0 Resource and Value for Money Implications

4.1 None

5.0 Risk Implications

5.1 It is important that the Council reviews its Constitution regularly to ensure that it is fit for purpose.

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TABLE 5

**DELEGATIONS TO THE DIRECTOR FOR PLACE AND
DEPUTY CHIEF EXECUTIVE**

	DELEGATION	OVERALL RESPONSIBLE BODY
	HIGHWAYS	
1	To exercise all the powers and duties of the County Council under the Highways Act 1980 (other than Sections 90A to 90i), the Countryside and Rights of Way Act 2000, the Rights of Way Act 1990 and the Traffic Management Act 2004 in relation to roads, highways, footpaths, bridleways and byways open to all traffic and to serve all notices and take all steps as the Acts may require in connection with the exercise of such powers and duties	COUNCIL
2	After seeking the views in each case of the local member(s) of the County Council affected thereby and the relevant District Council and Parish Council, and provided the local member(s) of the County Council so consulted do not object thereto, to exercise, the powers and duties of the County Council under Sections 90A to 90i of the Highways Act 1980 (Road Humps and other Traffic Calming Works); and under the Road Traffic Regulation Act 1984 (as amended or any subsequent re-enactment thereof)	COUNCIL
3	To determine objections to proposed Traffic Regulation Orders under paragraph 2 above (other than those made by the local members of the County Council affected thereby)	COUNCIL
3a	To be inserted – NEW DELEGATION See Appendix 3 attached	COUNCIL
4	In consultation with the Chief Constable, District Councils, County Teachers (and other representatives of organisations concerned with road safety) to maintain, monitor, review and implement a road safety strategy within the County Council's road safety policies	COUNCIL
5	To approve District Councils' proposals under	COUNCIL

	DELEGATION	OVERALL RESPONSIBLE BODY
	Sections 23 (market places) and 38 (cycling in pedestrian areas) of the Staffordshire Act 1983	
6	To approve District Councils' applications for Orders to amend charges for parking places in accordance with the powers contained in Section 35 of the Road Traffic Regulation Act 1984	COUNCIL
7	To take action on behalf of the County Council, after consultation where appropriate with District Councils, under Sections 5 (traffic signs), 6 (damage to footways), 7 (plans of new streets), 8 (vesting of former highway land) & 10 (grass verges etc) of the Staffordshire Act 1983	COUNCIL
8	To grant street works licences under the New Roads and Street Works Act 1991	COUNCIL
9	To issue Fixed Penalty Notices under Section 95 of the New Roads and Street Works Act as amended by Section 41 of the Traffic Management Act 2004	
10	To deal with individual cases where an altered highway produces a significant and obvious hardship either by the alteration directly or by a substantial increase in traffic which has been triggered by the alteration and where the total cost of providing discretionary noise insulation does not exceed the current cost of £5,000 per scheme (index linked in subsequent years by the national GDP)	COUNCIL
11	To take and implement any decisions necessary to fulfil the obligations of the County Council pursuant to, and in accordance with, a Service Level Agreement relating to the Council's participation in the Staffordshire Road Safety Partnership, including approving the annual operational plan for the Partnership	COUNCIL
12	To adopt new streets and private streets as highways maintainable at public expense, subject to public record being kept of the date of the adoption	COUNCIL
13	To make temporary closure orders for public paths under Section 14 of the Road Traffic Regulation Act 1984 because of works on, or near, the path or because of the likelihood of danger or damage	COUNCIL

	DELEGATION	OVERALL RESPONSIBLE BODY
14	To authorise the stopping up of parts of the highway network under the provisions of Section 247 of the Town and Country Planning Act 1990	COUNCIL
15	To exercise all the powers and duties of the County Council under the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009	COUNCIL
	PLANNING	
16	<p>Unless the observations which the Director for Place and Deputy Chief Executive proposes to give would represent a material departure from a planning policy for which the County Council is responsible:-</p> <ul style="list-style-type: none"> • To give the County Council's observations to District Councils, adjoining authorities, Government Departments and Statutory Undertakers/Public Utilities in response to consultations on planning, planning-related or environmental applications or policy documents • To give the County Council's observations to District Councils on highway and highway-related matters • To give the County Council's observations to the Environment Agency in response to consultations on Environmental Permits and policy documents. 	COUNCIL/ CABINET (LOCAL CHOICE)
17	To refer to the Secretary of State for Communities and Local Government and any District Council's proposal for its own development which would be detrimental to the County Council's interests or which would be contrary to the County Council's views	COUNCIL
18	To authorise the Peak Park Authority to discharge the County Council's powers and functions under the Ancient Monuments and Archaeological Areas Act 1979 in respect of that part of the Peak District National Park which is within Staffordshire, without prejudice to the exercise concurrently by the County Council within that area of their powers under the Act	COUNCIL
19	To be amended See appendix 3 attached	COUNCIL/ CABINET

	DELEGATION	OVERALL RESPONSIBLE BODY
		(LOCAL CHOICE)
20	<p>Subject to first consulting the Director of Democracy, Law and Transformation:</p> <ul style="list-style-type: none"> • To grant or refuse a Certificate of Lawfulness (CLU) for minerals and or/waste development • To determine whether or not to take formal action • To issue or withdraw an Enforcement Notice, or waive or relax any requirements of the Notice • To serve a Planning Contravention Notice • To serve a Breach of Condition Notice • To seek an Injunction in respect of an actual breach or an apprehended breach of planning control • To serve a Notice relating to replacement of trees • To serve a Temporary Stop Notice • To issue notices seeking details of the ownership of a site • To approve the commencement of legal proceedings for non-compliance with any notice 	COUNCIL
20a	To be inserted – NEW DELEGATION	COUNCIL
21	To authorise the serving of a Stop Notice in conjunction with an Enforcement Notice, subject to the approval of the Chairman or (in his absence) the Vice-Chairman of Planning Committee and to consultation with the Director of Democracy, Law and Transformation and the Local Member. Sub delegated only to Head of Sustainable County	
22	To consider any representations or offers received from any person upon whom a Planning Contravention Notice has been served and to make decisions as to what action should be taken in response to those representations	COUNCIL
23	To be amended See appendix 3 attached	COUNCIL

	DELEGATION	OVERALL RESPONSIBLE BODY
24	To approve submissions by mineral undertakers and the Coal Authority under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 and subsequent orders and applications for prior notification under Parts 6, 19, 20 21, 22, 23 and 31 of that order, and to determine applications for prior approval	COUNCIL
25	To be amended See appendix 3 attached	COUNCIL
26	In the case of extreme urgency and in consultation with the Chairman of the Planning Committee to issue directions under the Town and Country Planning (General Permitted Development) Order 1995 with regard to a restriction of permitted development	COUNCIL
27	To give, in consultation with the Chairman of the Planning Committee, a Direction that a Tree Preservation Order shall have immediate effect without previous confirmation, subject to and under Section 201 of the Town and Country Planning Act 1990	COUNCIL
28	To arrange for a site visit to be held in connection with any development control matter where in the opinion of the Director for Place and Deputy Chief Executive the consideration of that matter would be facilitated or enhanced by such visit; and on any such site visit to arrange for the attendance of the Chairman of the Planning Committee and such Members of the Planning Committee as may be appropriate, and the local member(s) of the County Council affected by the matter, and where the Director for Place and Deputy Chief Executive considers it appropriate, for the relevant District Council and/or Parish Council to be represented, provided that no decision in relation to that matter shall be taken on the site visit	COUNCIL
29	In relation to Schemes of Conditions under the Environment Act 1995, in accordance with government guidance, to: <ul style="list-style-type: none"> • Agree to requests to postpone the date for the submission of Schemes of 	COUNCIL

	DELEGATION	OVERALL RESPONSIBLE BODY
	Conditions; or <ul style="list-style-type: none"> • Make requests to extend the date for determination of Schemes of Conditions 	
	FOOTPATHS AND PUBLIC RIGHTS OF WAY	
30	To exercise all the powers and duties of the County Council under the Wildlife and Countryside Act 1981, Countryside and Rights of Way Act 2000 and the Conservation of Habitats and Species Regulations 2010 in relation to the operation and management of it's country parks and public access lands	COUNCIL
31	To designate a footpath as a cycle track under the Cycle Tracks Act 1984	COUNCIL
32	To keep the register of prescribed information with respect to applications under Section 53(5) of the Wildlife and Countryside Act 1981	COUNCIL
33	To enter into agreements with respect to means of access to any access land under Section 35 of the Countryside and Rights of Way Act 2000 and to provide access in the absence of such agreement under Section 37 of that Act	COUNCIL
34	To authorise the stopping up or diversion of a footpath or bridleway and to extinguish public rights of way over land held for planning purposes under Sections 257 and 258 of the Town and Country Planning Act 1990	COUNCIL
35	To determine, in the case of non-contentious applications and those arising at the County Council's own volition, applications for Definitive Map Modification Orders under Section 53 of the Wildlife and Countryside Act 1981, subject to consultation with the Local Member(s), and referral to the Countryside Rights of Way Panel if the matter becomes contentious	COUNCIL
36	To exercise all the powers and duties of the County Council under the Reservoirs Act 1975 and the Mines and Quarries Act 1954 in relation to the management of the Reservoirs and water bodies on its country parks and public access lands	CABINET
	W2R	
37	To make any decisions classified as	CABINET

	DELEGATION	OVERALL RESPONSIBLE BODY
	“Authority Representative Matters” on behalf of Staffordshire County Council and the Contract Management Board in connection with the operation of Project W2R except where such matters have been specifically reserved for Cabinet decision	
38	The Director for Place and Deputy Chief Executive and the Contract Manager be authorised to make any decisions on “Contract Board Matters” on behalf of Staffordshire County Council in connection with the operation of Project W2R except where such matters are reserved for Cabinet decision	CABINET
	LAND AND PROPERTY	
39	To take all steps in connection with the administration and management of the County Farms Estate including the purchase and disposal of land, the acquisition and granting of tenancies, licences and wayleaves, the serving of notices in connection with either estate, the granting of consent for alterations in the property or its use, and the settlement of rents, rent reviews, compensation and/or valuations where relevant	CABINET
40	Jointly with the Director of Finance and Resources, the approval of short term licences (up to three months) for car parking	CABINET
41	To authorise the Peak Park Authority to discharge the County Council’s functions, as contained in the Countryside Act 1968, in relation to land at the former Waterhouses Railway Station	CABINET
	PUBLIC PROTECTION	
42	To appoint qualified person(s) to hold the following statutory offices:- <ul style="list-style-type: none"> • Public Analyst for the purposes of the Food Safety Act 1990 and Agricultural Analyst for the purposes of the Agriculture Act 1970 • Deputy Public Analyst for the purposes of the Food Safety Act 1990 • Deputy Agricultural Analyst for the purposes of the Agriculture Act 1970 • Chief Inspector of Weights and 	COUNCIL

	DELEGATION	OVERALL RESPONSIBLE BODY
	Measures for the purposes of the Weights and Measures Act 1985	
43	To be the Proper Officer to undertake the council's function with regard to the appointment of coroner or deputy and to have responsibility for financial expenditure	COUNCIL
44	To designate staff of the service as Inspector, Authorised Officer and/or Sampling Officer, as the case may be, for all purposes under legislation conferring powers or duties on the County Council in respect of the protection of the public, consumers, animals both wild and domestic, or the environment, and the enforcement of which the County Council are empowered to undertake; and to confer on them all powers which the County Council may confer for the purposes of determining whether or not the provisions of such legislation and any Orders and Regulations are being complied with and all powers of enforcing the same in accordance with the relevant legal provisions for doing so	COUNCIL
44a	To be inserted – NEW DELEGATION See appendix 3 attached	COUNCIL
45	To designate staff of the service as being authorised, after receipt of the necessary information, to issue or where so authorised to refuse or to revoke any licences or to register any persons or premises or to issue certificates and collect any fees pursuant to legislation referred to in paragraph 43 above upon such terms and conditions as may be appropriate in each case	COUNCIL
46	To refuse to renew licences where licensees have failed to submit the appropriate petroleum spirit storage tank test certificate and/or the appropriate petroleum spirit store electrical installation test certificate by the due date	COUNCIL
47	To authorise, in cases of urgency and subject to consultation with the Chairman of the Planning Committee <ul style="list-style-type: none"> • An application to a court under the Safety of Sports Grounds Act 1975 to 	COUNCIL

	DELEGATION	OVERALL RESPONSIBLE BODY
	<p>prohibit or restrict the admission of spectators;</p> <ul style="list-style-type: none"> • The issue of a prohibition notice under the Fire Safety and Safety of places of Sport Act 1987 when the risk to spectators at a ground is so great that until steps have been taken to reduce it to a reasonable level, the admission of spectators ought to be restricted or prohibited • The serving of a preliminary notice to enforce safety at outdoor sports grounds where it is confirmed that a stand provides cover for more than 500 people 	
48	To make technical amendments to Safety Certificates	COUNCIL
48a	To be inserted – NEW DELEGATION See appendix 3 attached	COUNCIL
49	To commence as a Responsible Authority a review of a premise licence where the circumstances reveal that there has been a breach of Licensing Objectives	COUNCIL
50	To make an application to a court for a warrant pursuant to legislation referred to in paragraph 44 above	COUNCIL
51	To approve information sharing protocols with other agencies	COUNCIL
52	To authorise officers and persons appointed by the Proper Officer from outside the authority to act under Trading Standards legislation as specified in any formal joint working arrangements	COUNCIL
	CULTURE AND LEISURE	
53	To take decisions on the allocation of grants from the County Council's Arts Grants Scheme	CABINET
54	To authorise the disposal of artefacts from the County Museum collection	CABINET
55	To sign off grant applications for grants over £50,000	CABINET
	TRANSPORT	
56	To be inserted – NEW DELEGATION	CABINET

DELEGATIONS TO THE DIRECTOR FOR PLACE AND DEPUTY CHIEF EXECUTIVE

PROPOSED AMENDMENTS/ADDITIONS

Item No	Subject	Existing	Proposed	Reason for Change
3a (new) HIGHWAYS	cross boundary highway works		<p>After seeking the views in each case of the local member(s) of the County Council affected thereby and provided the local member(s) so consulted do not object thereto, to authorise:</p> <ul style="list-style-type: none"> (a) Neighbouring Authority to discharge the County Council's Highway functions and powers on 'cross boundary' contiguous sections of road (b) To authorise the County Council to discharge a neighbouring Authority's Highways functions and powers on 'cross boundary' contiguous sections of road 	<p>There are from time to time operational efficiencies in permitting an Authority to undertake works on a neighbouring Authority's section of road, especially where the alternative would be a duplication of work and increased advertising costs. It would also provide for clarity of information giving a single point of contact for members of the public that may be affected. One example would be where a temporary cross boundary road closure is required to enable utilities works e.g. gas</p>

				main renewal. The alternatives would be for each Authority to make a separate Traffic Order affecting only their section of road or for each Authority to make a 'joint Order' requiring both parties to sign and seal the Order. Both options are administratively cumbersome. It is expected that such occurrences will be infrequent.
19 (amendment) PLANNING	Granting/ Refusal of applications	Where there is no objection to the application or matter in question from: <ul style="list-style-type: none"> • The Chairman of the Planning Committee or the nominated opposition spokesperson; or • The relevant District Council or Parish Council; or • The Local Member of the County Council; or • A statutory consultee other 	Where there is no objection to the application or matter in question from: <ul style="list-style-type: none"> • The Chairman of the Planning Committee or the nominated opposition spokesperson; or • The relevant District Council or Parish Council; or • The Local Member of the County Council; or • A statutory consultee other than Sport England 	

		<p>than Sport England and no more than four letters of objection on planning grounds have been received (or such objection does not amount to a material planning consideration) then the Director may (subject at the Director's discretion to consult with the Chairman or Vice-Chairman of the Planning Committee) decide to:</p> <ul style="list-style-type: none"> • Grant planning permission for the County Council's own development other than those relating to proposals of the relevant Portfolio Holder • Grant planning permission for minerals and waste developments which do not involve the development of a substantial new site or the significant extension of an existing site 	<p>and no more than four representations raising objections on material planning grounds have been received, then the Director may (subject to the director's discretion to consult with the Chairman or Vice-Chairman of the Planning Committee) decide to:</p> <ul style="list-style-type: none"> • Grant planning permission for the County Council's own development • Grant planning permission for minerals and waste developments, including the approval of Schemes of Conditions under the Environment Act which do not involve the development of a substantial new site or the 	<p>As the approval of Schemes of Conditions are similar to the decisions to grant planning permissions</p> <p>As this would be impracticable as the Cabinet Members now have a wide range of responsibilities, e.g. planning and waste management/planning and highways</p>
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		<ul style="list-style-type: none"> • Refer applications for the County Council's own development to the Secretary of State where the application involves a Listed Building or development in the Green Belt or Sport England have objected • To grant or refuse a Certificate of Lawfulness (CLU) for minerals and/or waste development • Where there is a material planning objection to the application or matter in question to refuse planning permission for minerals or waste development except 	<p>significant extension of an existing site</p> <ul style="list-style-type: none"> • Refer applications to the Secretary of State when necessary in accordance with the relevant regulations where the application involves Green Belt development, development outside town centres, world heritage sites development, playing fields development or flood risk area development in accordance with the relevant statutory consultation arrangements • To refuse planning permission or not approve the matter in question, except in the case of a substantial new site or the significant extension of an existing site 	<p>As the regulations have changed</p> <p>Moved to Item 20</p> <p>As the wording is unnecessary. The reasons must always be as a result of material planning objections or due to a lack of information</p>
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		in the case of a substantial new site or the significant extension of an existing site		
20a (new) PLANNING	Signing of decision notices		To sign decision notices following the decision of the Planning Committee or (as authorised) by officers	As the organisation now has a flatter management structure and to improve clarity
23 (amendment) PLANNING	Approval of Reserved Matters	To approve matters reserved for later approval following consent in principle given by the Planning Committee or detailed submissions pursuant to conditions imposed by the County Council	In relation to County Council planning permissions, to approve, subject to the limitations referred to in 19 above: <ul style="list-style-type: none"> • Reserved Matters following the grant of outline planning permission • Details submitted pursuant to conditions imposed by the planning permissions • Minor material amendments and non-material amendments to planning permissions 	As there are new forms of approval that were not previously catered for and to improve clarity
25 (amendment) PLANNING	Env Impact Assessment	To take decisions on the need for <ul style="list-style-type: none"> • An environmental assessment in relation to a particular application/scheme of conditions/planning or 	In relation to a particular application/scheme of conditions/planning or enforcement appeal to <ul style="list-style-type: none"> • Issue a 'screening opinion' on the need for an environmental 	To improve clarity

		<p>enforcement appeal</p> <ul style="list-style-type: none"> • And reasons for issuing a screening opinion <p>Matters to be covered in a scoping opinion</p>	<p>impact assessment</p> <ul style="list-style-type: none"> • Issue a 'scoping opinion' on the range of matters to be addressed in the Environmental Impact Assessment 	
44a (new) PUBLIC PROTECTION	Health and Safety Inspectors		<p>By virtue of section 19 of the Health and Safety at Work Act 1974, to appoint as inspectors such persons having suitable qualifications as necessary for carrying into effect the relevant statutory provisions, and may terminate any appointment under this section. (Every appointment of a person as an inspector under this section shall be made by an instrument in writing specifying which of the powers conferred on inspectors by the relevant statutory provision shall be exercisable by the person appointed)</p>	<p>Officers need to exercise powers under the Health and Safety at Work Act 1974 in cases where there are serious safety breaches and a continuance is likely to be hazardous. Officers have the power to serve an improvement or prohibition notice on a premise or seize articles to render them safe. These powers are usually used in relation to the storage of fireworks and petroleum. Under section 19 of the Act officers must be specifically appointed as Inspectors in order to utilise the powers.</p>

<p>48a (new) PUBLIC PROTECTION</p>	<p>Surveillance and Information gathering</p>		<p>To designate staff to appear in court in relation to applications for the use of surveillance and information gathering techniques for the purpose of preventing or detecting crime</p>	<p>The Regulation of Investigatory Powers Act 2000 (RIPA) has been amended by The Protection of Freedoms Act 2012. The effect of the change is to require all applications for Directed Surveillance and Access to Communications Data to be authorised by a magistrate in the same manner as the application for a warrant. The delegation is necessary to authorise an investigating officer to appear before the magistrate to make the application. The RIPA powers can only be used for serious offences (those attracting a custodial sentence of 6 months or more) including the sale</p>
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				of alcohol and tobacco to minors.
56 (new) TRANSPORT	Duties in relation to provision of transport services		To exercise all the powers and duties of the County Council under the Transport Acts 1985 and 2000, Local Transport Act 2008 and Competition Act 1998, and any subsequent re-enactment thereof, in the provision of transport services within the county.	Each local transport authority must— (a) develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to, from and within their area, and (b) carry out their functions so as to implement those policies. (c) For the improvement of the quality of local services and secure best value in that provision for the benefit of the community of Staffordshire