



# AGENDA

For a meeting of the
<b>CONSTITUTION AND ACCOUNTS COMMITTEE</b>
to be held on
<b>MONDAY, 16 OCTOBER 2006</b>
at
<b>2.30 PM</b>
in the
<b>COMMITTEE ROOM 1 (CHAIRMAN'S ROOM), COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM</b>
<b>Duncan Kerr, Chief Executive</b>

Panel Members:	Councillor John Hurst, Councillor Reg Lovelock M.B.E. (Vice-Chairman), Councillor Peter Martin-Mayhew, Councillor Mrs. Linda Neal (Chairman) and Councillor John Wilks
Committee Support Officer:	Lucy Bonshor 01476 406120 l.bonshor@southkesteven.gov.uk

**Members of the Committee are invited to attend the above meeting to consider the items of business listed below.**

**1. MEMBERSHIP**

The Chief Executive to notify the Committee of any substitute members.

**2. APOLOGIES**

**3. DECLARATIONS OF INTEREST**

Members are asked to declare any interests in matters for consideration at the meeting.

**4. MINUTES OF THE MEETING HELD ON 20TH SEPTEMBER 2006**

(Enclosure)

**5. CHANGES TO DELEGATIONS SCHEME AND TERMINATION OF THE PLANNING PANEL**

Chief Executive's report CEX355.

(Enclosure)

**6. CIVIC UPDATE**

A report from the Civic Officer.

**(To follow)**

**7. AMENDMENTS TO CONSTITUTION**

Report No.DLS084 on the Scheme of Delegation from the Services Manager, Legal (Monitoring Officer).

**(Enclosure)**

**8. ANY OTHER BUSINESS, WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**



## **MINUTES**

### **CONSTITUTION AND ACCOUNTS COMMITTEE**

**WEDNESDAY, 20 SEPTEMBER 2006**

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#### **COMMITTEE MEMBERS PRESENT**

Councillor Mrs. Linda Neal (Chairman)  
Councillor Mike Exton

Councillor Frank Turner  
Councillor John Wilks

#### **OFFICERS**

Corporate Head of Finance and Resources  
Solicitor to the Council/Monitoring Officer  
Assets and Facilities Manager  
Procurement Officer  
Democratic Officer  
District Auditor – Neil Bellamy  
Simon Lacey

#### **OTHER MEMBERS**

Councillor Stan Pease  
Councillor Gerald Taylor

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#### **17. MEMBERSHIP**

The Committee were notified that Councillor Exton was substituting for Councillor Lovelock and Councillor Turner was substituting for Councillor Martin-Mayhew for this meeting only.

#### **18. APOLOGIES**

An apology for absence was received from Councillor J Hurst.

#### **19. DECLARATIONS OF INTEREST**

None received.

#### **20. MINUTES OF MEETING HELD ON 29TH JUNE 2006**

The minutes of the meeting held on 29th June 2006 were confirmed as a correct record of the decisions taken.

#### **21. AUDIT REPORT ON CLOSURE OF ACCOUNTS 2005/2006**

##### **Decision**

***To note the Audit report on the Closure of Accounts 2005/06.***

The District Auditor, Neil Bellamy began by stating that since the last audit a new international audit standard had been set and this was the reason for the

report coming back to the Council, it was for technical purposes. He referred members to page 4 of the report. This gave members the purpose of the report and its scope. In undertaking the audit the auditors had to comply with the Audit Commission's Statutory Code of Audit Practice for Local Government bodies (the Code). The responsibilities are to review and report on, to the extent required by the relevant legislation and the Code: the Authority's financial statement and whether the Authority had made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. A number of reports had been issued during the year on specific aspects of the audit programme. He then referred members to page 7. On the basis of the work they had undertaken they were in a position to give an unqualified audit opinion. He was satisfied that the recent issue of the Council's pension scheme and the lawfulness of one aspect of the scheme would not have a material effect on the Council's accounts, however until a review of the cases had been carried out and he had had the opportunity to review the review, he was not able to close the audit. The accounts could be signed off but not the audit. He then briefly went through paragraphs highlighting to members' areas that although they had to be reported, the auditors had nothing to report. He said that it was fair to say that the closure of accounts this year was much improved on the previous year. He then drew members' attention to paragraph 26 of the report which was a key paragraph and dealt with the letter of representation. This was written assurance from the Section 151 Officer that the auditors had been given all the facts in order to carry out their audit. A text of the letter required was appended to the report. The committee was happy for the Corporate Head of Finance and Resources to sign the letter of representation. The report then went on to discuss the Council's use of resources. The Code required the auditors to reach a conclusion on whether they were satisfied that the Authority had proper arrangements in place for securing economy, efficiency and effectiveness in its use of its resources, they had completed their work and had nothing to report to the committee. The auditors concluded by thanking the Corporate Head of Finance and Resources and her team for all the work that had been undertaken in order to be in the current position. The council showed a positive constructive approach and the self-assessment of the Council would be looked at in November- January this year with the reporting in the annual audit letter in March. The Chairman indicated that although she was not expecting a scoring of 3 across the board, she hoped that as the Council had made resources a category A priority they would be able to make progress towards scoring the higher end of 2 and maybe some 3's.

Questions were then asked about the pensions issue and the money involved to which the Corporate Head of Finance and Resources replied. The Monitoring Officer stated that although the issue of the pension scheme was in the public arena, members should be cautious about discussing repayments and claims.

## **22. TREASURY MANAGEMENT ACTIVITY 2005/2006**

### **Decision**

***That the Constitution and Accounts Committee note the report on***

### ***Treasury Management Activity for 2005/06.***

The Corporate Head of Finance and Resources referred members to report CHFR19 that had been circulated separately. Treasury Management was the term used to cover the Council's borrowing and investment strategies. The Chartered Institute of Public Finance and Accountancy (CIPFA) issued a Code of Practice on Treasury Management; this was designed to ensure that responsibilities are clearly understood and that reporting mechanisms are in place to provide evidence of prudential management. The Corporate Head of Finance and Resources briefly went through the report highlighting areas of interest to the Committee. She referred to the two brokers which the Council worked with on their financial reserves, Tradition (UK) Ltd and Sterling International Brokers Ltd and the interest rates which the council currently had on their short term interest rates (4.8%) and long term interest rates (5.09). Activity that was undertaken in 2005/06 included 40 short-term fixed deposits of between £250,000 to £5million with £1.25 million of deposits lent out as at 31 March 2006. Deposits were restricted to five banks/building societies and these were outlined in the report. During the year 45 deposits and 56 withdrawals were made on the account where funds for immediate access were placed. At the end of March 2006 the managed cash funds stood at £28 million. The Corporate Head of Finance and Resources referred to an issue raised by the auditors that concerned the amount of money held in the account at the end of the financial year. It was suggested that the council should better manage these funds, keeping as little as possible in the account. In order to facilitate this it was proposed that a post of Exchequer Team Leader be advertised. This person would have a day-to-day responsibility on looking at cash flows in and out of the Council and making the best use of those funds available. A future review of the Treasury Management strategy was planned with help and advice being sought from the Council's retained Treasury Management specialists, Butlers.

Questions were asked about the new Exchequer Team Leader post and advertising such posts and resources in general to which the Corporate Head of Finance and Resources replied. Members were happy to note the annual report on the Treasury Management 2005/06.

## **23. CONTRACT PROCEDURE RULES**

### **Decision**

***The Constitution and Accounts Committee recommends that:***

- (1) The action notes from the Resources DSP and recommendations from the Contract and Tendering Report conducted by Price Waterhouse Coopers be accepted and***
- (2) Subject to (1) the revised Contract Procedure Rules be adopted and incorporated within the Council's Constitution.***

Members had been circulated with report AFM020 from the Assets and Facilities Manager. The Assets and Facilities Manager informed the Committee

that the Contract Procedure Rules had been revised to incorporate new EU legislation, South Kesteven District Councils' procurement strategy and the management restructure. The draft document had been sent to various bodies for comment including the Centre of Excellence, the Portfolio Holder for Resources and the Resources DSP. Price Waterhouse Coopers had reviewed the final draft and their comments on the document were appended to the report for member's information. Members asked the officers involved if they were happy that the document was fit for purpose. The Assets and Facilities Manager said that he was confident that it was fit for purpose but that there would always be one or two exceptions, however the new document was more stringent than the old one. Members thanked all those involved for their hard work especially Julie Cant. It was proposed and seconded and agreed that the document be adopted.

The Corporate Head of Finance and Resources informed the Committee that although the document had not yet been to Council, the Service Manager training which was taking place shortly would involve training on the new contract procedure rules rather than the old ones to which the committee agreed that this was the way forward.

## **24. AMENDMENTS TO CONSTITUTION**

### **Decision**

***That the Constitution and Accounts Committee recommends to Council that the requirement for all non key decisions taken by individual portfolio holders under delegated powers to be reported to the next available Cabinet meeting be deleted from the Constitution.***

The Chairman informed the panel that this report had come before the Committee because often the Non Key Decisions (NKD's), which were reported at Cabinet, had been made the previous week or earlier and therefore the information was historical and often the call-in period for the NKD's had expired. Information about NKD's made was now available both pre-decision stage and on the day the decisions were published via the website. Those NKD's, which were actually made on the date of the Cabinet meeting, would still be able to be reported at Cabinet. The Monitoring Officer agreed that work was being duplicated and it would be sensible to delete the requirement from the Constitution. The proposal was moved and seconded and agreed.

## **25. ANY OTHER BUSINESS, WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT**

None.

## **26. CLOSE OF MEETING**

The meeting closed at 12.05pm.

# REPORT TO CONSTITUTION AND ACCOUNTS COMMITTEE

**REPORT OF:** Chief Executive

**REPORT NO.:** CEX355

**DATE:** 16th October 2006

<b>TITLE:</b>	<b>Changes to Delegations Scheme and termination of the planning panel.</b>	
<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	<b>N/A</b>	
<b>CORPORATE PRIORITY:</b>	<b>N/A</b>	
<b>CRIME AND DISORDER IMPLICATIONS:</b>	<b>None</b>	
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	<b>This report is available via the Local Democracy link on the council's website <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a></b>	
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	<b>Carried out and appended to report?</b>  <b>Not Applicable</b>	<b>Full impact assessment required?</b>  <b>No</b>
<b>BACKGROUND PAPERS:</b>		

## 1. Introduction

In 2003 the Development Control Committee established a planning panel as a pilot. The panel has operated since then but has never been incorporated within the Council's constitution.

The purpose of this report is to regularise this position by terminating the pilot of the planning panel and amending the scheme of delegation.

## **2. Recommendations**

It is recommended to full Council that:

- a) the planning panel pilot be terminated.
- b) that the scheme of delegation to the Development Control Services Manager as set-out in pages 81 and 82 of the constitution be amended in accordance with Appendix A.
- c) the provisions of the constitution are clarified to ensure that no Committee established by the Council has the power to establish a panel for the purpose of advising officer on the exercise of authority delegated to them by Council.

## **3. Determination of Planning Applications**

Under the legislation there are only two ways that planning applications can be lawfully determined:

- a) By the Development Control Committee in accordance with the powers granted to this Committee by Council.
- b) By a designated officer of the Council in accordance with powers granted to that officer by Council.

It is vital that there is a clear understanding of the legal framework under which these powers are held. The Monitoring Officer covers this point more specifically in her comments. The key point to bear in mind is that any attempt to fetter the discretion of either the Committee, or the Officer, in the exercise of their delegated authority lays the Council open to legal challenge from anyone aggrieved at the outcome of a particular application.

A number of issues have arisen as a direct result of how the planning panel has operated in practice. These issues have been discussed with the members of the Development Control Committee. The problems that led to the creation of the panel have been fully explored and alternative means of addressing them identified. The additional resources in planning staff secured as a result of the re-structuring has assisted in this process. No member of the Development Control Committee expressed any objections to this proposal, however some members did favour an amendment to the proposed delegation scheme to grant Parish Council the right to require applications to be considered by the full Committee. This option had been discussed with staff in Development Control who expressed concern that it may lead to an unmanageably large number of cases coming before the Committee.

In view of the risks to the Council that emanate from the planning obligations of the authority, and the way that the panel has operated in practice, if the Council is minded to continue with the operation of the planning panel it will need to be fully integrated into the Council's constitution. I could only support such a course of action if it has been reviewed by a Counsel and deemed to be lawful. Even then, if the Council is to evidence high standards of corporate governance and transparency, meetings of the panel would have to be held in public.

#### **4. COMMENTS OF MONITORING OFFICER**

The Council as a Local Planning Authority may arrange for the discharge of its functions by a committee, sub-committee or an officer. By virtue of s.101(2) of the Local Government Act 1972, unless the Council otherwise directs, that committee may arrange for the discharge of those functions by a sub-committee or an officer. This Council has authority, by virtue of this provision, to direct how those functions should be discharged.

By virtue of the current scheme of delegations at part 3 of the Constitution, the Council has directed the functions to be delegated to the Development Control Services Manager. The Development Control Committee does not have authority to amend or in any fetter this delegation without an amendment to the Constitution by way of a recommendation from Constitution and Accounts Committee for a resolution of this Council.

The Development Control Committee established the planning panel, ostensibly, to reduce the number of planning applications being referred to the Development Control Committee and assist officer delegations. This can only be done in a way which does not amend the delegation to the officer or fetter the decisions made by the Development Control Manager under delegated powers. To mitigate the risk of challenge to decisions being made, the operation of the planning panel must be completely transparent and cannot in any way require the approval of the panel of members for a function which has been delegated to an officer. Whilst the operation of the planning panel does not propose the giving of approval or any amendment to officer delegation, it is difficult to see how that can be shown in practice without minutes of the meeting and public attendance. The planning panel as operating does not in any way mitigate but increases the risk of challenge. It adds another strand to the decision making process which is more open to challenge than the established processes of officer delegation or committee decision.

**Duncan Kerr**  
**Chief Executive**

## **Appendix A**

The existing paragraphs numbered 1 and 2 (a) to (j) of pages 81 to 83 of the Constitution shall be replaced with the following wording:

All decisions, responses or determinations arising in relation to applications, approval of reserved matters, prior approvals, consents and consultations, submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and related or associated legislation (including subordinate legislation and any consolidation, re-enactment or amendment thereto) shall be delegated to the Development Control Services Manager, except in the following situations:

- 1) Any application for planning permission which, in the opinion of the Authorised Officer is a departure from the Development Plan or an emerging replacement plan, and where the intended officer decision is permission/consent.
- 2) Any application for planning permission, approval of reserved matters, conservation area consent or listed building consent where a Member of the Council has requested in writing to the Development Control Manager that the application be considered by Committee. All requests shall be on the appropriate pro-forma and shall be submitted within three weeks of the circulation of details of the application

The request shall include a statement outlining material planning reasons why the proposal needs to be considered by Committee, accompanied by a list of related Development Plan or National Planning Policies. The Development Control Manager shall have the power to decline the request if in their opinion the reasons do not constitute material planning reasons.

All requests will be acknowledged in writing, and the reasons for the application being referred will be included in the officer report to the Development Control Committee.

- 3) Any application or consultation or like matter where the Authorised Officer considers a decision should be taken by Committee.
- 4) Any application submitted by or on behalf of a Councillor of the authority (or their spouse or partner) or by or on behalf of a member of the Council's staff (or their spouse or partner).
- 5) Any application submitted by or on behalf of the Council for its own developments, except for the approval of routine minor developments to which no objection has been received.
- 6) In those cases where statutory time limits are involved for making decisions or taking action, for example in cases of agricultural buildings, demolitions, telecommunications determinations and notifications of works to trees in

Conservation Areas, where non determination within a set period automatically gives consent; any objections received will be considered by the Authorised Officer and at their discretion efforts will be made to resolve the objection before the expiry period. However, the existence of the objection will not alter their authority in these instances to make a decision.

## REPORT TO CONSTITUTION AND ACCOUNTS COMMITTEE

REPORT OF: Civic Support Officer

REPORT NO.: CS3

DATE: 16th October 2006

<b>TITLE:</b>	Civic Budget Update Report	
<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	Councillor Paul Carpenter Democratic Representation	
<b>CORPORATE PRIORITY:</b>	N/A	
<b>CRIME AND DISORDER IMPLICATIONS:</b>	N/A	
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	N/A	
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	Carried out and appended to report?  <b>Yes/No/Not Applicable</b>	Full impact assessment required?  <b>Yes/No</b>
<b>BACKGROUND PAPERS:</b>	None	

### Introduction

1. This report is intended to update members on civic issues and functions, the budget for 2006/7 and the outturn for the period up to 30th September 2006.

### Budget 2006/7

2. The Civic Functions Budget for 2006/7 is attached at Appendix A.

The total budget for 2006/7 is £42,460. As at 30th September 2006, actual spend, including known commitments amounted to £35,974.92 leaving a balance of £6,485.08 for the remainder of the year.

The cost of the Chairman's Civic Service in June totalled £1,084 against a budget of £2,000 resulting in an underspend of £916. This amount, however offsets the Civic Ceremonies element of the budget which is currently overspent by £50.

### Civic Transport

3. The contract let for the provision of a Car and Chauffeur has now been in operation for 15 months and the Chairman continues to strike a balance between the use of the contracted Chauffeur and his own vehicle, thereby maximising the number of functions he has been able to carry out. As at 1st June 2006, the Contract was extended for a further 2 years on the same terms. Under the terms of the contract, the Council is committed to pay a monthly sum of £550, irrespective of usage and the contractor has the provision to increase his charges in line with inflation. The budget also allows for an additional, variable element of £8,040.00 to enable the Chairman to represent the District Council. Based on the previous Chairman's level of activity, £3,500 has been committed for the remainder of the civic year 2006/7.

At the end of September 2006 the Chairman and Vice Chairman will have represented South Kesteven at 73 civic events as follows:

	<u>Chauffeured events</u>	<u>Own Transport</u>
Chairman	32	22
Vice Chairman	2	17

### Events Calendar for the remainder of the Civic Year

4. Events to be hosted by the Chairman over the remainder of his civic year are:

<u>Event</u>	<u>Date</u>
Fund Raising Dinner in Stamford	Yet to be decided
Chairman's Charity Variety Concert	15th February 2006
Charity Concert at St. Wulframs Church	Yet to be decided
Chairman's Annual Civic Dinner	2nd March 2006
Past Chairman's Annual Lunch	Council's A.G.M.

### Fund Raising for the Chairman's Charities

5. The Chairman's two chosen charities for his year of office are the Lincolnshire and Nottinghamshire Air Ambulance Charitable Trust and the Bomber Command Association. Any funds raised throughout his year of office will be divided between these two organisations. The principal fund raising event of his year of office will be the Charity Variety Concert, to be held at the Grantham Guildhall. A similar event held last year proved very successful and raised considerable funds. The Chairman however is also seeking to host a Charity Concert performed by the RAF Regiment Band to be held at St. Wulfram's Church in Grantham. As one of the Chairman's chosen charities is a service related charity and half of the proceeds would be directed towards this organisation, there would be no charge for their performance. The Chairman would however have to fund the transport of the members of the band and their instruments to and from the concert venue. A local bus company has indicated willingness to undertake this task. Modest refreshments would also need be provided for members of the band. Similar concerts hosted by neighbouring civic heads have proved very successful and have raised significant funds for charitable purposes.

The Commanding Officer of RAF Cranwell has also kindly offered to permit the Chairman to have two charity presentation "stalls" at the entrance to Whittle Hall, RAF Cranwell before and during other scheduled band concerts before Christmas.

### Conclusion

6. The financial statement assists to ensure the Chairman's activities are carefully monitored and controlled to ensure that civic expenditure remains in budget at all times.

### Recommendation

7. Members are requested to note the contents of this update report on civic issues.

Viv Wyatt  
Civic Support Officer

## CIVIC FUNCTIONS BUDGET 2006/7

	Actual £	Commitments £	Total Spend £	Budget £	Variance £
<b>Code C151 D812</b>					
<b>Chairmans Civic Budget</b>					
Civic Ceremonies (A4003)	650.00	400.00	1,050.00	1,000.00 -	50.00
Civic Service (A4004)	984.00	100.00	1,084.00	2,000.00	916.00
Civic Dinner (A4005)	-	-	-	2,000.00	2,000.00
Annual Meeting Lunch (A4006)	-	-	-	400.00	400.00
	<b>1,634.00</b>	<b>500.00</b>	<b>2,134.00</b>	<b>5,400.00</b>	<b>3,266.00</b>
<b>Civic Officer</b>					
Salaries	6,180.00	6,180.00	12,360.00	12,360.00	-
	<b>6,180.00</b>	<b>6,180.00</b>	<b>12,360.00</b>	<b>12,360.00</b>	<b>-</b>
<b>Transport Costs</b>					
Chaffeur and Car-Contract	2,750.00	3,850.00	6,600.00	6,600.00	-
Chaffeur and Car-Excess	2,050.92	3,500.00	5,550.92	8,040.00	2,489.08
Pool Cars	14.00	-	14.00	60.00	46.00
Use of Own Vehicle	308.00	200.00	508.00	1,050.00	542.00
	<b>5,122.92</b>	<b>7,550.00</b>	<b>12,672.92</b>	<b>15,750.00</b>	<b>3,077.08</b>
<b>Other Associated Costs</b>					
Misc Equipment (EO1 D19)	370.00	-	370.00	50.00 -	320.00
Internal Printing	-	-	-	750.00	750.00
Stationery	-	-	-	-	-
Pooled Photocopiers	-	-	-	10.00	10.00
Telephones	-	-	-	60.00	60.00
Telephones-Mobile	-	-	-	-	-
	<b>370.00</b>	<b>-</b>	<b>370.00</b>	<b>870.00</b>	<b>500.00</b>
<b>Total Controllable</b>	<b>13,306.92</b>	<b>14,230.00</b>	<b>27,536.92</b>	<b>34,380.00</b>	<b>6,843.08</b>
<b>Chairmans Allowances</b>	2,779.00	2,779.00	5,558.00	5,200.00 -	358.00
<b>Management</b>					
Corporate Management	840.00	840.00	1,680.00	1,680.00	-
Paymaster	100.00	100.00	200.00	200.00	-
Accountancy	500.00	500.00	1,000.00	1,000.00	-
	<b>1,440.00</b>	<b>1,440.00</b>	<b>2,880.00</b>	<b>2,880.00</b>	<b>-</b>
<b>Total</b>	<b>17,525.92</b>	<b>18,449.00</b>	<b>35,974.92</b>	<b>42,460.00</b>	<b>6,485.08</b>

## REPORT TO CONSTITUTION AND ACCOUNTS COMMITTEE

REPORT OF: LEGAL SERVICES MANAGER (MONITORING OFFICER)

REPORT NO.: DLS084

DATE: 16<sup>th</sup> October 2006

<b>TITLE:</b>	<b>AMENDEMENT TO THE CONSTITUTION SCHEME OF DELEGATION</b>
<b>FORWARD PLAN ITEM:</b>	N/A
<b>DATE WHEN FIRST APPEARED IN FORWARD PLAN:</b>	N/A
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	

<b>COUNCIL AIMS/PORTFOLIO HOLDER NAME AND DESIGNATION:</b>	N/A				
<b>CORPORATE PRIORITY:</b>	MANAGEMENT OF COUNCIL BUSINESS				
<b>CRIME AND DISORDER IMPLICATIONS:</b>	N/A				
<b>FREEDOM OF INFORMATION ACT IMPLICATIONS:</b>	PIUBLICATION SCHEME				
<b>INITIAL EQUALITY IMPACT ASSESSMENT</b>	<table> <tr> <td><b>Carried out and appended to report?</b></td><td><b>Full impact assessment required?</b></td></tr> <tr> <td><b>Not Applicable</b></td><td><b>No</b></td></tr> </table>	<b>Carried out and appended to report?</b>	<b>Full impact assessment required?</b>	<b>Not Applicable</b>	<b>No</b>
<b>Carried out and appended to report?</b>	<b>Full impact assessment required?</b>				
<b>Not Applicable</b>	<b>No</b>				
<b>BACKGROUND PAPERS:</b>	Report to Cabinet CEX 296				

## **1. INTRODUCTION**

- 1.1 The purpose of this report is to set out the amendments to part 3 of the Constitution relating to the delegations to officers within the scheme of delegations. The amendments are required as a result of the management restructure being carried out at the present time and as detailed in the Chief Executive's report to Cabinet no. CEX 296 for which adjustment to the budget framework policy was authorised by the Council at its meeting on the 8th September 2005. The restructure has resulted in posts being deleted and new posts being created. It is essential that the new posts and appropriate authorised officers are assigned to the delegations within their control.

Details of the amendments so far as they relate to the scheme of delegations, list of powers delegated to officers, at part 3 of the Constitution are set out in the appendix to this report. The amendments are shown in red.

As a result of the changes to officer designations on restructure, minor amendments are required throughout the Constitution to ensure the appropriate officer designations are substituted with the correct post holder following the restructure. These amendments are not shown in the appendix attached.

## **2. RECOMMENDATIONS**

It is recommended in order to update the Constitution following the management restructure permitted by the Council at its meeting on the 8th September 2005 this Committee recommends to Council that

- 2.1 the amendments set out in red in the appendix to this report are approved for inclusion in the Constitution to take effect forthwith.
- 2.2 the minor amendments required to update the officer designations throughout the Constitution, which follow from the amendments detailed in the appendix attached, are carried out forthwith.

## **3. DETAILS OF REPORT**

- 3.1 As a result of the management restructure being carried out, the posts of corporate directors and corporate managers have been deleted. Three strategic directors have been appointed and six corporate heads are to be appointed. Three corporate heads have been appointed. The three remaining posts have been advertised and interviews are taking place. Service manager posts have been re-designated with the majority of posts having been filled. Whilst some posts have not yet been filled, it is appropriate, at this stage, to amend the Constitution to reflect the changes taking place to provide clarity in respect of the responsibility for functions.

3.2 Where possible functions are to be delegated to the appropriate corporate head responsible for those functions. This is not possible where the appropriate officer responsible for carrying out those functions must be suitably qualified.

3.2 Where functions are to be delegated to posts which have not yet been filled, the Chief Executive has used his authority, in accordance with the Constitution, to delegate those functions to the next most appropriate senior officer in post on a temporary basis. A register of all temporary delegations has been set up to ensure a record of all temporary delegations is made and reviewed on the appointment of relevant vacant posts.

3.3 The majority of the amendments relate to the re-designation of posts following the restructure. Minor amendments have been made to the text of the delegated functions to correct anomalies, amend functions which no longer exist and add functions which have been introduced by new legislation.

#### **4. OTHER OPTIONS CONSIDERED AND ASSESSED**

The only other option available would be to leave the Constitution as drawn pending the appointment to all new posts. In view of the deletion of the posts referred to in the details of this report, it is appropriate to clarify the position in the Constitution in line with the new structure of the organisation with temporary delegation, as authorised by the Chief Executive, pending appointment to the various vacant posts.

#### **5. COMMENTS OF SECTION 151 OFFICER**

As contained in the body of the report and the appendix.

#### **6. COMMENTS OF OTHER RELEVANT SERVICE MANAGER**

All corporate heads and service managers in post have been consulted and their comments have been incorporated into the amendments detailed in the appendix attached.

#### **7. CONTACT OFFICER**

Lucy Youles  
Legal Services Manager (Monitoring Officer)  
Tel: 01476 406105  
E-mail: l.youles@southkesteven.gov.uk

## **LIST OF POWERS DELEGATED TO OFFICERS**

### **CHIEF EXECUTIVE, , CORPORATE HEADS, SERVICE MANAGERS**

1. To manage the services for which they are responsible:-
  - (1) in accordance with any policy decisions made by, or guidelines issued by, the Council;
  - (2) within the budgets made or approved by the Council;
  - (3) in compliance with all standing orders, codes of practice, financial regulations or instructions approved or adopted by the Council.
2. To take such decisions or actions as they are required or authorised to take :-
  - (1) under standing orders adopted by the Council, and
  - (2) as proper officers of the Council (as defined in Section 270(3) of the Local Government Act 1972).

### **CHIEF EXECUTIVE**

1. All functions as Head of Paid Service.
2. That the Head of Paid Service be made responsible for maintaining and updating the scheme of delegation to officers.

### **CORPORATE HEAD, FINANCE & RESOURCES (Chief Finance Officer) (S151 OFFICER)**

1. To make arrangements for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.
2. To conduct loans, finance operations and to incur and repay bank overdrafts within the policies of the Council as prescribed from time to time.
3. To write off all debts due to the Council not exceeding £5,000 when he is satisfied that recovery is not possible.
4. To take all such action as may be required in relation to an appeal under Section 16 of the Local Government Finance Act 1992.
5. To exercise the powers of the Council to anticipate precepts in accordance with regulations made by the Secretary of State under Section 41 of the Local Government Finance Act 1992.
6. To exercise the powers of the Council under Section 14 and Schedule 2 of the Local Government Finance Act 1992 relating to:-

7. The variation of the statutory instalment scheme for the payment of the council tax.
8. Any request to any person appearing to be resident, owner or managing agent of a particular dwelling to supply information needed for the purpose of identifying the liable person in relation to the dwelling.
9. To exercise the powers of the Council under Section 14 and Schedule 3 of the Local Government Finance Act 1992 relating to the management of the schemes of civil penalties (including the imposition and collection of such penalties) within the policies of the Council prescribed from time to time.
10. To take, on behalf of the Council, any appropriate action to enforce the payment of council taxes under Section 14 and Schedule 4 of the Local Government Finance Act 1992 and to enforce payment of community charges under Schedule 4 of the Local Government Finance Act 1992.
11. To make determinations under Section 47 of the Local Government Finance Act 1988 and Section 1 and Schedule 1 of the Local Government and Rating Act 1997 as to discretionary rate relief in accordance with any such scheme for the time being approved or adopted by the Council.
12. To compile and maintain, on behalf of the Council, in accordance with Section 42 of the Local Government Finance Act 1988 (and Section 1 and Schedule 1 of the Local Government Rating Act 1997) a local non-domestic rating list and a rural settlement list.
13. To take all such action as is required of the Council in the administration of the non-domestic rating system under Section 62 and Schedule 9 of the Local Government Finance Act 1988 and any regulations made by the Secretary of State thereunder.
14. To exercise the powers of the Council under Section 99 of the Local Government Finance Act 1988 relating to the collection fund and the payment of precepts.
15. To take all such action as is required of the Council to establish and maintain its general fund under Section 91 of the Local Government Finance Act 1988.
16. To take all such action as is required of the Council to establish and maintain its Housing Revenue Account under Section 74 of the Local Government and Housing Act 1989.
17. Subject to any directions given from time to time by the Council to make all such calculations as are required for the purposes of Section 32 of the Local Government Finance Act 1992.
18. To make arrangements for the proper administration of housing and council tax benefits under Section 134 of the Social Security Administration Act 1992, (as

amended by SS 121, 227, Schedules 12 & 19 of the Housing Act 1996) (Section 123 of the Social Security Contributions and benefits Act 1992 and Schedule 9 of the Local Government Finance Act 1992).

19. To implement schemes for lease cars, car loans and travelling allowances from time to time approved by the Council.
20. Without prejudice to the exercise of any of the powers referred to in paragraphs 1 to 17 inclusive, the Corporate Head Finance & Resources is authorised to serve notices, enter into agreements, give receipts, make adjustments, institute proceedings and to take any action available to the Council to collect or enforce the collection of non-domestic rate, Council Tax and the personal, standard and collective community charges from those persons liable.
21. To authorise contributions up to a maximum of £200 towards litigation costs in cases supported by the Local Government Association.
22. To carry out all functions relating to treasury management in accordance with the Council's Treasury Management Policy. The policy is in accordance with the CIPFA Code of Practice.
23. To maintain adequate internal controls by setting appropriate authorisation limits for council officers in relation to the procurement of goods and services for the council.

#### **DIRECTOR OF TENANCY SERVICES**

1. To exercise the general management, regulation and control of the Council's housing stock under Section 21 of the Housing Act 1985.
2. To take all such action as is required of the Council to prepare, maintain and administer the housing register under Sections 159 to 166 of the Housing Act 1996 as amended by the Homelessness Act 2002.
3. Subject to any policy directions given by the Council, to take all such action as is required of the Council to prepare, maintain and administer a housing allocation scheme under Sections 161, 167 to 168 of the Housing Act 1996 and Section 106 of the Housing Act 1985 as amended by the Homelessness Act 2002.
4. To allocate housing to the homeless applicants to whom the Council owes a duty under Part VII of the Housing Act 1996 as amended by the Homelessness Act 2002.
5. To sign and serve notice **seeking possession** and take action for possession of any Council dwelling, land or garage for any reason authorised under Schedule 2 of the Housing Act 1985 (as amended by Housing Act 1996).
6. To publish information about secure tenancies under Section 104 of the Housing Act 1985.

7. To maintain arrangements for consultation with tenants on matters of housing management which are likely substantially to affect them (Section 105, Housing Act 1985).
8. To issue reports to all housing revenue account tenants each year containing information determined by the Secretary of State about functions of the Council as housing authority (Section 167, Local Government and Housing Act 1989).
9. To prepare and implement, within resources provided by the Council, programmes for the refurbishment, repair and maintenance of Council dwellings.
10. To exercise the powers of the Council relating to tenants' right to have repairs carried out and pay compensation for improvements under Sections 121 and 122 of the Leasehold Reform, Housing and Urban Development Act 1993 and Section 96 of the Housing Act 1985 (Tenants Right to Repair).
11. To implement and ensure compliance with Tenancy & Neighbourhood Services Tenancy Agreement (April 2002).
12. To serve, and to authorise Tenancy & Neighbourhood Services officers to serve notices under Section 17 of the Public Health Act 1961 relating to drainage
13. To serve, and to authorise Tenancy & Neighbourhood Services officers to serve, notices under Section 35 of the Local Government (Miscellaneous Provisions) Act 1976 to unblock private sewers.
14. To serve, and to authorise Tenancy & Neighbourhood Services officers to serve, notice under Sections 59 and 60 of the Building Act 1984 relating to drainage.
15. Authorised and to authorise Tenancy & Neighbourhood Services officers to arrange for repair where drainage is in adequate under Section 59 of the Building Act 1984.
16. To serve and to authorise Tenancy & Neighbourhood Services officers to serve, requisitions for information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
17. To sign, serve and authorise Tenancy & Neighbourhood Services officers to issue Notice to Quit and take action for possession of any council dwelling or garage occupied under licence, non-secure tenancy or as a result of trespass.
18. To sign, serve and authorise Tenancy & Neighbourhood Services officers to sign and serve Anti-Social Behaviour contracts drawn up and served under the provisions of the Crime and Disorder Act 1998.
19. To sign, serve and authorise Tenancy & Neighbourhood Services officers to make any application to the County Court in connection with the general

management, regulation and control of the Council's stock under the Housing Act 1985, Housing Act 1996, Homeless Act 2002, the Crime & Disorder Act 1998 and the Anti-Social Behaviour Act 2003.

## **CORPORATE HEAD OF SUSTAINABLE COMMUNITIES AND THE CORPORATE HEAD OF HEALTHY ENVIRONMENT**

### **Private Sector Housing**

1. To serve and to authorise Housing Solutions Officers and Environmental Health officers to serve, abatement notice under Section 80 of the Environmental Protection Act 1990.
2. To serve, and to authorise Housing Solutions Officers Environmental Health officers to serve, notices under Section 35 of the Local Government (Miscellaneous Provisions) Act 1976 to unblock private sewers.
3. To serve, and to authorise Housing Solutions Officers and Environmental Health officers to serve, notice under Sections 45, 50, 79 and 140 of the Public Health Act 1936.
4. To serve, and to authorise Housing Solutions Officers and Environmental Health officers to serve, notice under Sections 189, 190 and 352 of the Housing Act 1985 relating to fitness of property for human habitation.
5. Authorisation to sign on behalf of the Council documents under the Housing Act in relation to condition of houses or environmental health as proper officer under Section 234 of the Local Government Act 1972.
6. To serve and to authorise Housing Solutions Officer and Environmental Health officers to serve, notice in relation to defective premises under Section 76 of the Building Act 1984.
7. Authorised and to authorise Housing Solutions Officers and Environmental health officers to arrange for restoration of gas, electricity or water supply where the building is occupied as a dwelling and the supply has been cut off as a result of landlord failure under Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.
8. Authorised and to authorise Housing Solutions Officers and Environmental Health officers to under take works to a building to prevent it becoming a danger to public health under Section 29 of the Local Government (Miscellaneous Provisions) Act 1982.
9. Authorised and to authorise Housing Solutions Officers and Environmental Health officers to arrange for repair where drainage is in adequate under Section 59 of the Building Act 1984.

10. Authorised and to authorise Housing Solutions Officers and Environmental Health officers to serve repair notice where property is unfit for human habitation under Section 189 of the Housing Act 1985.
11. To serve and to authorise Housing Solutions Officers and Environmental Health Officers to serve, repair notice where property is in state of disrepair under Section 190 of the Housing Act 1985.
12. To serve and to authorise Housing Solutions Officers and Environmental Health Officers to serve, notice to make houses in multiple occupation fit for number of occupants under Section 352 of the Housing Act 1985.
13. To serve and to authorise Housing Solutions Officers and Environmental Health Officers to serve, requisitions for information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
14. To serve and to authorise Housing Solutions Officers to serve, deferred action notices in relation to unfit properties under Section 81 of the Housing Grants, Construction and Regeneration Act 1996.
15. To serve and to authorise Housing Solutions Officers to serve, “Minded to” notices in respect of houses in disrepair or unfit under Regulation 3 of the Housing (Fitness Enforcement Procedures) Order 1996.
16. To serve, and to authorise Housing Solutions Officers to serve, demand and recover for payment for enforcement action notices in respect of properties in disrepair or unfit under the Housing Grants, Construction and Regeneration Act 1996.
17. To serve, and to authorise Housing Solutions Officers to serve, notices to recover expenses incurred when serving notices under Section 352 of the Housing Act 1985.

## **CORPORATE HEAD OF SUSTAINABLE COMMUNITIES**

### **Business Grants**

1. To authorise awards under the Council’s Business Grant Scheme in consultation with the relevant Cabinet member.

### **Homelessness**

2. To exercise the duty and authorise Housing Solutions officers to exercise the duty of providing or securing the provision of advisory services and assistance in relation to homelessness under Part VII of the Housing Act 1996 as amended by the Homelessness Act 2002.
3. To take all such action and authorise all Housing Solutions officers as is required of the Council to undertake enquiries in relation to homelessness

under Section 184 of the Housing Act 1996 as amended by the Homelessness Act 2002 and to determine homelessness applications as appropriate

### **Development Control**

4. To authorise development control officers to administer cautions in respect of breach of advertisement control and in other cases where, following authorisation, court proceedings are considered inappropriate.
5. To serve, in consultation with the Legal Services Manager, breach of condition notices in respect of breaches relating to the implementation of planning permissions and conditions containing a precedent requirement.
6. To take action under Section 225 of the Town and Country Planning Act 1990 to remove or obliterate unauthorised placards and posters.
7. To serve notices under Section 330 (Requisition for Information) and Section 171C (Planning Contravention Notices) of the Town and Country Planning Act 1990.

### **Building Control**

8. Power to determine applications submitted under building regulations including the determination of applications for the relaxation and variation of building regulations and authority to engage consultants for the checking of structural details where this work cannot be carried out by the Council's own staff.
9. To take, after consultation with the relevant Cabinet member and the Legal Service Manager, enforcement action under the Building Regulations (including the service of notices under Section 36 of the Building Act 1984).
10. To serve and authorise Building Control officers notices under Section 330 (Requisition for Information) and Section 171C (Planning Contravention Notices) of the Town and Country Planning Act 1990.
11. In consultation with the Chief Executive, to vary the standard fee scale of the Local Government Association Model Scheme by plus or minus 10% (under The Building (Local Authority Charges) Regulations 1998).
12. To exercise the powers of the Council relating to emergency measures needed to deal with dangerous structures under Section 78 of the Building Act 1984.
13. In consultations with the Chief Executive and the relevant Cabinet member, to vary the standard fee scales of the Local Government Association Model Scheme by a percentage greater than 10%.

## **CORPORATE HEAD OF HEALTHY ENVIRONMENT**

### **Waste Services**

1. To serve on behalf of the Council enforcement notices for litter, waste and dog fouling in respect of the following statutes:

The Environmental Protection Act 1990  
The Refuse Disposal (Amenity) Act 1978  
Dogs (Fouling of Land) Act 1996  
Clean Neighbourhood Act 2005

2. The Corporate Head of Healthy Environment be authorised to designate in writing any other officers that are to be authorised by the Council to enter premises for these various statutory purposes and also to act in respect of the enforcement of the various statutory provisions relating to waste, dog fouling and fly tipping within these statutes.
3. That the Corporate Head of Healthy Environment be an authorised officer for the purposes of the enforcement of the graffiti and fly posting provisions of the Anti Social Behaviour Act 2003; and
4. That the Corporate Head of Healthy Environment be authorised to designate in writing any other officers that are authorised by the Council to enter premises for these various statutory purposes and also to act in respect of the enforcement of various statutory provisions relating to graffiti and fly posting within the Anti Social Behaviour Act 2003.
5. That the Corporate Head of Healthy Environment have delegated powers relating to enforcement given under the provisions of the Clean Neighbourhood Act 2005.

### **Licensing**

6. To act as authorised officer for the purposes of licensing hackney carriage and private hire vehicles and drivers under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 and to exercise the powers of the Council in respect of the offences set out below:-

- (i) sex offences;
- (ii) drink driving;
- (iii) reckless driving;
- (iv) driving without insurance;
- (v) burglary and theft;
- (vi) offences involving violent behaviour (e.g. grievous or actual bodily harm or assault);
- (vii) impersonation;
- (viii) arson;
- (ix) blackmail;

- (x) offences involving fraud or deception;
  - (xi) firearms and or weapons;
  - (xii) drugs;  
which in the opinion of the Head of Environmental Health Services & Licensing will or may render the applicant not fit to hold, or continue to hold, a licence;
7. No hackney carriage or private hire driver's licence shall be issued to an applicant until:
- (i) the applicant has held a full driving licence for one year;
  - (ii) three years have elapsed with no further convictions since his/her driving licence was restored following a conviction for offences involving drink/driving or reckless driving.
8. To approve permits for public collections for charitable or other purposes under the provisions of the Charities Act 1992, and other relevant statutory provisions.
9. To approve applications for the grant, renewal and transfer of licenses and registrations under the provisions set out below provided he is satisfied that all necessary conditions are met:-
- | Act                                 | Function                        |
|-------------------------------------|---------------------------------|
| Local Government Gaming Act 1968    | Street Trading                  |
| Lotteries and Amusements Act 1976   | Registration of small Lotteries |
| Betting Gaming & Lotteries Act 1963 | Registration of Pool Promoters  |
| Licensing Act 2004                  | Alcohol Licensing               |
| Gambling Act 2005                   | Gambling                        |
10. To approve requests for busking in the Stamford Pedestrian Precinct.

### **Public Health**

To authorise the Director of Public Health and all proper officers so authorised :

11. To apply to a Justice of the Peace for orders under Sections 37 and 38 of the Public Health (Control of Diseases) Act 1984 (as modified or applied by the Public Health (Infectious Diseases) Regulations 1988) in relation to persons suffering from acquired immune deficiency syndrome (AIDS) or other notifiable disease.
12. To apply in emergency situations to the relevant court under Section 47 of the National Assistance Act 1948 and Section 1 of the National Assistance (Amendment) Act 1951 for the removal to suitable premises of people in need of care and attention.

13. To approve all applications (including applications for renewal, variation and transfer) for licences or registration of premises and/or persons which or who fall within the terms of reference of the Licensing Panel provided he is satisfied that all qualifying conditions have been met.
14. To engage a veterinary officer on a fee basis for the occasions where he considers that an application for the licensing or registration of premises requires an inspection by a veterinary officer.
15. To serve, and to authorise Environmental Health officers to serve under Section 80 of the Environmental Protection Act 1990 when he is satisfied that immediate action is necessary.
16. To serve and to authorise Environmental Health Officers to serve notices and to take all necessary action under Part 11 (A) of the Environmental Protection Act 1990.
17. To exercise the powers of the Council under Section 46 of the Public Health (Control of Diseases) Act 1984 relating to:
  - (a) the burial or cremation of a body of any person who has died or been found dead in the area where no other suitable arrangements have or will be made;
  - (b) the recovery of the costs incurred.
18. To serve, and to authorise Environmental Health Officers to serve, notices under Section 17 of the Public Health Act 1961 relating to drainage when satisfied that immediate action is necessary.
19. To serve, and to authorise Environmental Health Officers to serve, notices under Section 35 of the Local Government (Miscellaneous Provisions) Act 1976 to unblock private sewers when satisfied that immediate action is necessary.
20. To serve notice under Sections 45, 50, 79 and 140 of the Public Health Act 1936 when satisfied that immediate action is necessary.
21. To serve notice under Section 60 of the Control of Pollution Act 1974 to control noise levels from construction sites when satisfied that immediate action is necessary.
- 22.. To serve notice under Section 59 and 60 of the Building Act 1984 relating to drainage when satisfied that immediate action is necessary.
23. To serve notice under Sections 189, 190 and 352 of the Housing Act 1985 relating to fitness of property for human habitation when immediate action is necessary.
24. To prosecute fly-tipping offences under S.33 (1) (a) Environmental Protection Act 1990 following consultation with the Solicitor to the Council.

25. Environmental Health Practitioners designated by the Head of Environmental Health Services & Licensing are appointed inspectors for the purposes of Part I of Schedule 2 of the Sunday Trading Act 1994.

### **CORPORATE HEAD OF CORPORATE AND CUSTOMER SERVICES**

1. To arrange short term lettings of land not immediately required for other purposes at rents/licence fees fixed by the S151.
2. To grant, vary or discharge easements and covenants in, over or for the benefit of land owned by the Council subject to:-
  - (1) valuation agreed by the District Valuer;
  - (2) approval of the Corporate Head of any service directly concerned.
3. To exercise all the Council's powers and duties, including the power to issue directions and to apply
  - (1) to the Magistrates' Court for orders relating to unauthorised encampments of travellers contained in the Criminal Justice and Public Order Act 1994 and
  - (2) to the Civil Courts for orders against trespassers on Council land or property.
4. To serve, or authorise the service of, requisitions for information and to prosecute offenders under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 330 of the Town and Country Planning Act 1990.
5. To instigate prosecution proceedings for unlawful advertisement and breach of condition notices under the Town and Country Planning Act 1990.
6. To serve planning contravention notices and to commence prosecution proceedings under Section 171 (c) of the Town and Country Planning Act 1990.

### **DEVELOPMENT CONTROL SERVICES MANAGER**

To exercise the following powers of the Council under the Town and Country Planning Acts and other relevant legislation:-

1. To make decisions about whether or not any application submitted to the Council is a "County Matter" within the definition in Schedule 1 of the Town and Country Planning Act 1990.
2. To exercise powers under 70A of the Town and Country Planning Act 1990 to decline to determine applications.

To determine all applications, EXCEPT:-

- (a) an application contrary to the provisions of an approved or draft development plan, and which is recommended for approval;
  - (b) an application contrary to approved Council policies, standards or guidance, and which is recommended for approval;
  - (c) an application which raises an issue which is not covered by specific Council policies, standards or guidance;
  - (d) an application which any Member requests in writing to the development Control Manager, within 14 days of the circulation of details of the application, should be the subject of consideration by the relevant Committee;
  - (e) an application which is potentially controversial or likely to be of significant public interest, in the opinion of the Development Control Services Manager.
  - (f) an application which would have a significant impact on the environment, in the opinion of the Development Control Services Manager;
  - (g) an application on which material planning objection(s) (including those from Parish/Town Councils and statutory consultees) have been received in the stipulated time span, which have been resolved by negotiation or through the imposition of conditions;
  - (h) an application submitted by or on behalf of a Councillor of the authority (or their spouse/partner) or be a member of the Council's staff (or their spouse/partner);
  - (i) an application submitted by or on behalf of the Council for its own developments, except for the approval of routine minor developments to which no objection has been received;
  - (j) an application which the Development Control Services Manager considers should be presented to Committee for decision.
3. to accept minor amendments to approved plans.
  4. To determine, under Section 31 of the Town and Country Planning Act (General Permitted Development) Order 1995, whether prior approval is required in cases where demolition of buildings is involved.
  5. To determine under the Town and Country Planning (General Permitted Development) Order 1995 whether prior approval is required for proposed agricultural development.

6. To determine prior notification submissions under Article 24 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 - and as amended by the Amendment Order 1999 - Development by Telecommunications Code Systems Operators.
7. To exercise the powers under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, and any future amending or replacement regulations, to undertake screening opinions and to determine the need for an Environmental Impact Assessment statement for development which requires planning permission.
8. Power to authorise:-
  - (1) the making of immediate Tree Preservation Orders;
  - (2) routine maintenance work to trees covered by Tree Preservation Orders or trees in Conservation Areas.
9. To issue hedgerow retention notices and generally to discharge duties under the Hedgerow Regulations 1997 made under Section 97 of the Environment Act 1995.
10. To determine, subject to the exceptions set out below, applications received for grant aid under the Planning (Listed Buildings and Conservation Areas) Act 1990.
11. To deal with all complaints in relation to high hedges made pursuant to Part 8 of the Anti-Social Behaviour Act 2003 and any regulations issued thereunder;
12. To authorise persons to exercise the power of entry pursuant to Section 74 and 77 of the Anti-Social Behaviour Act 2003.

#### **EXCEPTIONS:-**

- (a) New applications which would commit the District Council to expenditure in excess of £1,000.
- (b) Applications for supplementary grant which would commit the District Council to further expenditure in excess of £500.
- (c) Applications where an applicant has requested reconsideration of a decision of the Development Control Services Manager.
- (d) Applications which involve a matter of policy (e.g. grants to churches).

**LIST OF “PROPER OFFICERS” & DESIGNATED OFFICERS FOR PARTICULAR FUNCTIONS**

1. The officers listed in column A below have responsibility for the functions set opposite them in column B under the statutory provisions set out in column C:-

<b>A</b>	<b>B</b>	<b>C</b>
Chief Executive	Head of Paid Service	Section 4 L.G.H.A. 1989
Chief Executive	Electoral Registration Officer	Section 8 R.P.A. 1983
Chief Executive	Returning Officer at district and parish elections	Section 35 R.P.A.1983
Corporate Head Finance & Resources	Financial Administration and Council Tax	Section 151 L.G.A. 1972 Section 114 L.G.F.A. 1988 and L.G.F.A. 1992 other than the functions reserved to the Council under Section 67 of that Act.
Legal Services Manager	Monitoring Officer	Section 5 L.G.H.A.

2. The officers listed in column A are proper officers for the functions set opposite then in column B under the statutory provisions set out in column C.

<b>A</b>	<b>B</b>	<b>C</b>
Chief Executive	To act as parish trustee	Section 13 L.G.H.A. 1972 8
Chief Executive	Declaration of acceptance of office	Section 83 L.G.A. 1972
Chief Executive	Delivery of resignation from office	Section 84 L.G.A. 1972
Chief Executive	Summoning council meeting to fill casual vacancy for office of chairman	Section 88 L.G.A 1972
Chief Executive	Receipt of notice of casual vacancy	Section 89 L.G.A. 1972
Monitoring Officer	Pecuniary Interests	Section 96 L.G.A. 1972 Section 19 LGHA 1989 and the Local Authorities (Members' Interests) Regulations 1992
Monitoring officer	To exclude from agendas any report which is likely to be considered in the absence of the public	Section 100B(2) L.G.A. 1972
Monitoring officer	To supply to any newspaper copies of documents supplied to councillors in connection with any item on the agenda	Section 100B(7)(c) L.G.A. 1972

Monitoring Officer	To prepare a summary of proceedings taken in the absence of the public when the minutes do not provide a reasonably fair and coherent record of the proceedings	Section 100C(2) L.G.A 1972
The Officer who issues a report to the Council/ Committee	To compile a list of background papers	Section 100D(1)(a) L.G.A. 1972
The Officer who issues a report to the Council/ Committee	To identify background papers	Section 100D(5)(a) L.G.A. 1972
Monitoring Officer	To decide whether a document contains certain categories of exempt information which will exempt the document from inspection by members of the Council	Section 100F(2) L.G.A. 1972
Chief Executive	Signature of documents	L.G.A. 1972
Chief Executive	Politically restricted posts	L.G.H.A. 1989 Section 2(4)
Chief Executive	Duty to notify auditor of meetings to consider statutory reports	L.G.F.A. 1988 Section 116

Chief Executive	Functions in relation to charities	Section 210 L.G.A 1972
Corporate Head Sustainable Communities	Local Land Charges	Local Land Charges Act 1975 and rules made thereunder
Chief Executive	Deposit of documents	Section 225 L.G.A. 1972
Legal Services Manager	Certification of photographic copies	Section 229 L.G.A 1972
Legal Services Manager	To send copies of byelaws to county and parish councils	Section 236 L.G.A. 1972
Chief Executive	Certification of byelaws	Section 238 L.G.A. 1972
Chief Executive	Signing summonses to council meeting	L.G.A 1972 Schedule 12 para 4 (2)
Chief Executive	Address to which summonses are to be sent	L.G.A. 1972 Schedule 12 para. 4(3)
Chief Executive	Receipt of monies from officers	Section 115 L.G.A. 1972
Chief Executive	Transfer of securities on alteration of name or area	Section 146 L.G.A. 1972

Corporate Head Sustainable Communities	Ordnance Survey matters	Section 191 L.G.A. 1972
Corporate Head Sustainable Communities	Dangerous buildings and emergency measures	Bld. Act 1984 Sections 77 and 78
Corporate Head Sustainable Communities	Notices to the Council of intended demolition	Bld. Act 1984, Sections 80, 81 and 82
Corporate Head Healthy Environment	Signature of documents under the Housing Act in relation to the condition of houses or environmental health	L.G.A. 1972 Section 234
Corporate Head Healthy Environment	Defective premises	Bld. Act 1984 Section 76
Corporate Head Healthy Environment	To act as appointed officer for dogs	Environmental Protection Act 1990 Section 149
Corporate Head Healthy Environment	To inspect district for detection of statutory nuisance	Environmental Protection Act 1990 Section 79

Corporate Head Healthy Environment	To arrange for restoration of gas electricity or water supply where building is occupied as a dwelling and supply has been cut off as a result of landlord failure	Local Government (Miscellaneous Provisions) Act 1976 Section 33
Corporate Head Healthy Environment	To undertake work to a building to prevent it becoming a danger to public health	Local Government (Miscellaneous Provisions) Act 1982 Section 29.
Corporate Head Healthy Environment	To arrange for repair where drainage is inadequate	Building Act 1984 Section 59
Corporate Head Healthy Environment	To serve repair notice where property is unfit for human habitation	Housing Act 1985 Section 189
Corporate Head Healthy Environment	To serve repair notice where property is in state of disrepair	Housing Act 1985 Section 190
Corporate Head Healthy Environment	Signature of documents in relation to local authority air pollution control	Environmental Protection Act 1990 Part 1
Corporate Head Healthy Environment	To issue prior consents regarding noise from construction sites	Control of Pollution Act 1974, Section 61

Corporate Head Healthy Environment	To serve notice to make houses in multiple occupation fit for number of occupants	Housing Act 1985 Section 352
Corporate Head Healthy Environment and Corporate Head of Sustainable Communities	To serve requisitions for information	Local Government (Miscellaneous Provisions) Act 1976, Section 16
Corporate Head Healthy Environment and Corporate Head of Sustainable Communities	To serve deferred action notices in relation to unfit properties	Housing Grants, Construction and Regeneration Act 1996, Section 81
Corporate Head Healthy Environment and Corporate Head of Sustainable Communities	To serve 'Minded To' notices in respect of houses in disrepair or unfit	The Housing (Fitness Enforcement Procedures) Order 1996, Regulation 3
Corporate Head Healthy Environment and Corporate Head of Sustainable Communities	To serve Demand for Payment for Enforcement Action notices in respect of properties in disrepair or unfit	Housing Grants, Construction and Regeneration Act 1996
Corporate Head Healthy Environment and Corporate Head of Sustainable Communities	To serve notices to recover expenses incurred when serving notices under Section 352, Housing Act 1985	Housing Act 1985 Section 352(A)

Corporate Head Healthy Environment	To issue approvals to food businesses falling under the provisions of regulations made using the powers of the Food Safety Act 1990, Section 16	Food Safety Act 1990
Corporate Head Healthy Environment	To serve notice to require destruction of rats or mice or keeping land free of rats and mice	Prevention of Damage by Pests Act 1949, Section 4.
Corporate Head of Sustainable Communities	Ruinous and dilapidated buildings and neglected sites	Building Act 1984 Section 79

NOTE:- In this list:-

L.G.A. 1972 means the Local Government Act 1972

L.G.F.A. 1988 means the Local Government Finance Act 1988

L.G.H.A. 1989 means the Local Government and Housing Act 1989

Bld. Act 1984 means the Building Act 1984

R.P.A. 1983 means The Representation of the People Act 1983

L.G.F.A. 1992 means the Local Government Finance Act 1992

3. The Corporate Head of Health Environment is a proper officer of the Council in relation to the Public Health Act 1961 Section 85, the Public Health Control of Disease Act 1984, Section 47 of the National Assistance Act 1948 and Section 1 of the National Assistance (Amendment) Act 1951.
4. Without prejudice to the specific appointments as proper officers set out in paragraphs 1, 2 and 3 above, the Chief Executive, the Development Control Services Manager and Corporate Heads are proper officers of the Council in relation to any matters (including, but not limited to, matters referred to in Section 234 of the Local Government Act 1972) which fall either by specific resolution of the Council or by custom or practice within their responsibilities.
5. The Chief Executive is proper officer of the Council in relation to any matter or function which is not otherwise catered for in this list or by later resolution of the Council.
6. A proper officer shall nominate in writing another officer of the Council to act as proper officer in his stead in the event that he is at any time absent or unable to act as such proper officer.
7. In the event of any ambiguity in or discrepancy between any of the paragraphs 1 to 5 above, those paragraphs shall take precedence in numerical order.

## **AUTHORISED OFFICERS**

Environmental Health Service Managers and officers designated in writing by them are authorised by the Council to enter premises for various statutory purposes (including survey, examination and valuation) under Sections 197, 260, 319, 340, 395, 411 and 600 of the Housing Act 1985, and Section 97 of the Local Government and Housing Act 1989.

The Development Control Services Manager and Building Control Services Manager and officers, designated in writing by them, are authorised to enter premises for various statutory purposes under Sections 196 A and B and Section 324 of the Town and Country Planning Act 1990 and Sections 88 and 88A of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.

The Development Control Services Manager and Building Control Services Manager and officers designated in writing by them are authorised to enter premises for various statutory purposes under Section 95 of the Building Act 1984.

The Environmental Health Service Managers and officers designated in writing by them are authorised to act under the following statutes; -

Animal Boarding Establishments Act 1963  
Animal Health Act 1981  
Breeding of Dogs Acts 1973 and 1991  
Building Act 1984  
Burials Act 1857  
Caravan Sites and Control of Development Act 1960  
Chemicals (Hazard Information and Packaging) Regulations 1993  
Cinemas Act 1985  
Clean Air Act 1993  
Clean Neighbourhoods and Environment Act 2005  
Control of Pollution Act 1974  
Control of Pollution (Amendment) Act 1989  
Control of Smoke Pollution Act 1989  
Control of Substances Hazardous to Health Regulations 1999  
Crop Residues (Restriction on Burning) No 2 Regulations 1991  
Dairy Products (Hygiene) Regulations 1995  
Dangerous Dogs Act 1991  
Dangerous Dogs (Amendment) Act 1997  
Dangerous Wild Animals Act 1976  
Dark Smoke (Permitted Period) Regulations 1958  
Disability Discrimination Act 1995  
Dogs Act 1871  
Egg Products Regulations 1993  
Electricity at Work Regulations 1989  
Environmental Protection Act 1990  
Environmental Protection (Applications, Appeals & Registers) Regulations 1991 and amendments

Environmental Protection (Prescribed Processes and Substances) Regulations 1991  
 and amendments  
 Environment Act 1995  
 Factories Act 1961  
 Fire Safety and Safety of Places of Sport Act 1987  
 Food and Environment Protection Act 1985  
 Food Hygiene (England) Regs 2005  
 Food Hygiene (No.2) Regs 2005  
 Food Labelling Regs 1996  
 Food Safety Act 1990  
 Food Safety (Fishery Products) Regulations 1992  
 Food Safety (Fishery Products on Fishing Vessels) Regulations 1992  
 Food Safety (General Food Hygiene) Regulations 1995  
 Food Safety (General Food Hygiene) (Butchers Shops) Amendment Regs 2000  
 Food Safety (Live Bivalve Molluscs and Other Shellfish) Regulations 1992  
 Food Safety (Temperature Control) Regulations 1995  
 Fresh Meat (Beef Controls)(No.2) Regulations 1996  
 Fresh Meat (Hygiene and Inspection) Regulations 1992  
 Health and Safety at Work etc. Act 1974 and associated legislation  
 Health and Safety (Enforcing Authority) Regulations 1998  
 Health and Safety (First Aid) Regulations 1981  
 Health and Safety Information for Employees Regulations 1989  
 Housing Act 1985  
 Housing Act 1996  
 Housing Act 2004  
 Housing Grants Construction and Regeneration Act 1996  
 Housing (Fitness Enforcement Procedures) Order 1996  
 Housing (Prescribed Forms) (No 2) Regulations 1990,as amended 1997  
 Houses in Multiple Occupation (Charges for Registration Schemes) Order 1997  
 Housing (Means of Escape from Fire in Houses in  
 Multiple Occupation) Order 1981  
 Land Compensation Act 1973  
 Land Drainage Act 1991  
 Licensing Act 2003  
 Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England)  
 Regulations 2006  
 Licensing and Management of Houses in Multiple Occupation and other Houses  
 (Miscellaneous Provisions) (England) Regulations 2006  
 Lifting Operations and Lifting Equipment Regulations 1998  
 Local Government Act 1972 (Byelaw, Section 235)  
 Local Government & Housing Act 1989  
 Local Government (Miscellaneous Provisions) Act  
 1976 and 1982  
 Management of Houses in Multiple Occupation (England) Regulations 2006  
 Meat Products (Hygiene) Regulations 1994  
 Minced Meat and Meat Preparations (Hygiene) Regulations 1995  
 National Assistance Act 1948 & 1951  
 Noise and Statutory Nuisance Act 1993  
 Noise at Work Regulations 1989  
 Offices, Shops & Railway Premises Act 1963  
 Pesticides Act 1998  
 Pet Animals Act 1951

Pollution Prevention and Control Act 1999  
 Poultry Meat, Farmed Game Bird Meat and Rabbit  
 Meat (Hygiene and Inspection) Regulations 1994  
 Prevention of Damage by Pests Act 1949  
 Pressure Systems and Transportable Gas  
 Containers Regulations 1989  
 Private Water Supplies Regulations 1991  
 Public Health Act 1936  
 Public Health Act 1961  
 Public Health (Control of Disease) Act 1984  
 Radioactive Substances Act 1960  
 Rag Flock and Other Filling Materials Act 1951  
 Refuse Disposal (Amenity) Act 1978  
 Registered Homes Act 1984  
 Riding Establishments Act 1964  
 Riding Establishments Act 1970  
 Road Traffic (Regulation) Act 1984  
 Rural Water Supplies and Sewerage Act 1971  
 Scrap Metal Dealers Act 1964  
 Selective Licensing of Houses (Specified Exemptions) (England) Order 2006  
 Sunday Trading Act 1994  
 Slaughter of Poultry Act 1967  
 Slaughterhouse Act 1974  
 Theatres Act 1968  
 The Dangerous Substances (Notification and Marking of Sites) Regulations 1990  
 The Health and Safety (Display Screen Equipment) Regulations 1992  
 The Housing (Deferred Action and Charge for Enforcement Action) (Forms)  
 Regulations 1996  
 The Housing (Enforcement Procedures for Houses in Multiple Occupation) Order  
 1997  
 The Housing (Fire Safety in HMO's) Order 1997  
 The Housing (Fitness Enforcement Procedures) Order 1996  
 The Housing (Management of Houses in Multiple Occupation) Regulations 1990  
 The Housing (Maximum Charge for Enforcement Action) Order 1996  
 The Housing (Recovery of Expenses for Section 352 Notices) Order 1997  
 The Management of Health and Safety at Work Regulations 1992  
 The Manual Handling Operations Regulations 1992  
 The Meat (Enhanced Enforcement Powers) England Regulations 2000  
 The Noise Act 1996  
 The Notification of Cooling Towers and Evaporative  
 Condensers Regulations 1992  
 The Personal Protection Equipment at Work Regulations 1992  
 The Provision and Use of Work Equipment Regulations 1998  
 The Reporting of Injuries, Diseases and Dangerous  
 Occurrences Regulations 1995 The European Communities Act 1972 and any orders  
 or regulations made thereunder or having effect by virtue of this Act  
 Transmissible Spongiform Encephalopathy (England) Regulations 2002  
 The Working Times Regulations 1998  
 The Workplace (Health, Safety and Welfare) Regulations 1992  
 Town Police Clauses Act 1847  
 Town Police Clauses Act 1889  
 Transport Act 1980

Transport Act 1985  
Transport Act 2000  
Water Industry Act 1991  
Water Resources Act 1991  
Water Supply (Water Quality) Regulations 1989  
Zoo Licensing Act 1981

**NOTE:**

By resolution of the Council contained in minute 15 in volume 14 all officers who are duly authorised officers of their own local authorities within the meaning of Section 5 of the Food Safety Act 1990 are duly authorised officers for the same purposes within the district of South Kesteven.

**AUTHORISED OFFICERS**

The Housing Solutions Manager, the Head of Environmental Health Services and officers designated in writing by them be authorised to enter premises in accordance with the provisions of the Housing Act 1985, the Local Government and Housing Act 1989 and the Housing Act 2004 and act in accordance with the provisions of the following statutes:-

Building Act 1984  
Environmental Protection Act 1990  
Housing Act 1985  
Housing Act 1986  
Housing Grants, Construction and Regeneration Act 1996  
Housing (Prescribed Forms) (No.2) Regulations 1990-  
Housing in Multiple Occupation (Charges for Registration Schemes) Order 1981  
Public Health Act 1936  
Public Health Act 1961  
The Housing (Deferred Action and Charge for Enforcement Action) (Forms) Regulations 1996  
The Housing (Enforcement Procedures for Houses in Multiple Occupation) Order 1997  
The Housing (Fire Safety in HMO'S) Order 1997  
The Housing (Fitness Enforcement Procedures) Order 1996  
The Housing (Management of Houses in Multiple Occupation) Regulations 1990  
The Housing (Maximum Charge for Enforcement Action) Order 1996  
The Housing (Recovery of Expenses for Section 352 notices) Order 1997  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982  
Local Government and Housing Act 1989  
The Crime and Disorder Act 1998  
The Anti Social Behaviour Action 2003  
The Homelessness Act 2002

The Housing Solutions Manager and the Head of Environmental Health Services are authorised to carry out all duties and powers authorised by Sections 11, 20, 28, 32, 40, 46, 47, 64, 102, 113, 136, 139 and 243 of the Housing Act 2004.

## **DEPUTIES**

Under the relevant provisions, certain statutory officers of the Council have a duty to nominate members of their staff to perform their duties when they are unable to act owing to absence or illness. In practice this will be to a service manager having the requisite professional qualifications according to the particular duties requiring to be performed. Currently, the Monitoring Officer has nominated the Member Services Manager to act on her behalf in these circumstances. There is no specific duty to appoint a deputy Head of Paid Service, and in the absence or illness of the Chief Executive the same rule would apply. The Chief Executive will establish arrangement within the Operational Management team and the Strategic Management team to ensure that his or her duties are carried out in a deputy capacity during the Chief Executives absence.

## **LOCAL GOVERNMENT ACT 1972**

The Chief Executive, and any officer of the Council so authorised by him in writing, may prosecute, defend or appear in any proceedings under Sections 222 and 223 of the Local Government Act 1972.