

**SCHEME OF SUB-DELEGATION
Growth, Environment and Transport**

Corporate Director: Barbara Cooper

To: Director of Environment, Planning and Enforcement (Interim)

The principles of the operation of this Scheme of Sub-Delegation are set out in Appendix A. Sub-Delegations are categorised as General and Specific delegations below.

1) GENERAL DELEGATIONS

See Appendix B for a summary of the general powers which have been delegated to Officers. These delegations cover Finance, Risk Management and Internal Control, Information Management, Employees, Health & Safety and External Arrangements.

These general delegations are in respect of the following services:

- Strategic Planning and Policy
- Public Protection
- Countryside & Communities,
- Sustainable Business and Communities
- Kent Downs Area of Outstanding Natural Beauty Unit

2) SPECIFIC DELEGATIONS

In accordance with the provisions of the Constitution of Kent County Council, I authorise the Director of Environment, Planning and Enforcement to undertake the following:

1) Functions delegated to me by the Council

Those powers which have been delegated to me by the Council in Appendix 2 Part 3 of the Constitution of Kent County Council, namely:

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
A. Functions relating to town and country planning and development management amongst others, including the following:		
1. Power to act as a statutory planning consultee for major development with surface water drainage as the Lead Local Flood Authority.	Town and Country Planning (Development Management Procedure) (England) Order 2015, Section 18, (Consultations before the grant of permission, Schedule 4 para ze (Major Development with surface water drainage)	Director of Environment, Planning and Enforcement
B. Regulatory Services Functions		
1. Duty to keep list of persons entitled to sell	Sections 3, 5, 6 and 11 of the Poisons Act 1972	Director of Environment, Planning and Enforcement

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non-medical poisons		
2. Power to register animal trainers and exhibitors	Section 1 of the Performing Animals (Regulation) Act 1925	Director of Environment, Planning and Enforcement
3. Power to licence the employment of children	Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963	Director of Environment, Planning and Enforcement
5. Powers to licence the sale and collection of pigs	Articles 13 and 14 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11)	Director of Environment, Planning and Enforcement
6. Power to sanction use of parts of buildings for storage of celluloid	Section 1 of the Celluloid and Cinematograph film Act 1922	Director of Environment, Planning and Enforcement
7. All Commons Registration functions	Part 1 of the Commons Act 2006 and Commons Registration Act 2008	Regulation Committee
C Functions Relating to Highways		
11. Duty to assert and protect the rights of the public to use and enjoyment of highways	Section 130 of the Highways Act 1980	Director of Environment, Planning and Enforcement or Director of Highways, Transportation and Waste
12. The making of agreements for the execution of highways works	Section 278 of the Highways Act 1980	Director of Environment, Planning and Enforcement or Director of Highways, Transportation and Waste
D Functions Relating to Public Paths		
1. Power to create footpath, bridleway or restricted byway by agreement.	Section 25 of the Highways Act 1980(c.66) as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
2. Power to create footpaths, bridleways and restricted byways.	Section 26 of the Highways Act 1980 as amended	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of

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		Environment, Planning and Enforcement
3. Duty to keep register of information with respect to maps, statements and declarations.	Section 31A of the Highways Act 1980	Director of Environment, Planning and Enforcement
4. Power to stop up footpaths, bridleways and restricted byways.	Section 118 of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
5. Power to determine application for public path extinguishment order.	Section 118ZA and 118C(2) of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
6. Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
7. Power to make a special extinguishment order.	Section 118B of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
8. Power to divert footpaths, bridleways and restricted byways.	Section 119 of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and

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		Enforcement
9. Power to make a public path diversion order.	Section 119Z and 119C(4) of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980 as amended.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980.	Director of Environment, Planning and Enforcement
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
14. Duty to keep register with respect of applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.	Director of Environment, Planning and Enforcement
15. Power to decline to determine certain	Section 121C of the Highways Act 1980.	Regulation Committee – where substantive objection has been raised or the Local

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applications.		Member requests. Otherwise Director of Environment, Planning and Enforcement
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.	Director of Environment, Planning and Enforcement
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.	Director of Environment, Planning and Enforcement
18. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.	Director of Environment, Planning and Enforcement
19. Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980.	Director of Environment, Planning and Enforcement
20. Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980.	Director of Environment, Planning and Enforcement
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.	Director of Environment, Planning and Enforcement
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.	Director of Environment, Planning and Enforcement
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981(c.67).	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
24. Duty to keep definitive map and statement	Section 53 of the Wildlife and Countryside Act 1981(c.69).	Regulation Committee – where substantive objection has been raised or the Local

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
under review.		Member requests. Otherwise Director of Environment, Planning and Enforcement
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.	Director of Environment, Planning and Enforcement
27. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.	Director of Environment, Planning and Enforcement
28. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
29. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c.68).	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
30. Power to authorise stopping-up or diversion of footpath or bridleway.	Section 257 of the Town and Country Planning Act 1990.	Regulation Committee – where substantive objection has been raised or the Local Member requests.

FUNCTION	PROVISION OF ACT OR STATUTORY INSTRUMENT	RESPONSIBILITY/DECISION MAKER
		Otherwise Director of Environment, Planning and Enforcement
31. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.	Regulation Committee – where substantive objection has been raised or the Local Member requests. Otherwise Director of Environment, Planning and Enforcement
32. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000(c.37)	Director of Environment, Planning and Enforcement
33. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000	Director of Environment, Planning and Enforcement
G Functions relating to the Land Drainage Act 1991		
1. Power to enforce obligations to repair watercourses, bridges etc	Section 21 of the Land Drainage Act 1991 as amended by section 31 of Schedule 2 of the Flood and Water Management Act 2010	Director of Environment, Planning and Enforcement
2. Power to give consent for obstructions, etc, in watercourses	Section 23 of the Land Drainage Act 1991 as amended by section 32 of Schedule 2 of the Flood and Water Management Act 2010	Director of Environment, Planning and Enforcement
3. Power to require works for maintaining flow of watercourses	Section 25 of the Land Drainage Act 1991 as amended by section 33 of Schedule 2 of the Flood and Water Management Act 2010	Director of Environment, Planning and Enforcement
4. Power of entry for internal drainage boards and Local Authorities	Section 64 of the Land Drainage Act 1991	Director of Environment, Planning and Enforcement
H. Other Functions		
7. Power to appoint staff or place them at the disposal of other authorities	Sections 112 and 113 of the Local Government Act 1972	<u>Senior Managers</u> - Personnel Committee or Member Appointment Panel (Sub Committee) <u>Other officers</u> – Senior Managers

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14. The obtaining of particulars of persons interested in land	Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Director of Environment, Planning and Enforcement
19. The appointment (and the revocation of any such appointment) of an individual: (a) to any office other than an office in which he is employed by the authority (b) to any body other than: (i) the authority (ii) a joint committee of two or more authorities (c) to any committee or sub-committee of such a body		<u>All Senior Officers except when the appointment needs to be made by the Leader in connection with the delegation by him of his functions, the list of those appointments to be agreed from time to time by the Selection & Member Services Committee</u>
20. Any function under a local Act		<u>All Senior Officers</u>

2) Functions delegated to me by the Leader and Cabinet

Those functions delegated to me by the Leader in Appendix 2 Part 4 of the Constitution of Kent County Council through the Executive Scheme of Delegation.

To exercise the relevant functions of the Cabinet Member for Planning, Highways, Transport & Waste and the Cabinet Member for Community and Regulatory Services in respect of their portfolios, including the signing off of responses to district council consultations on major development planning applications classed as strategic of "S" cases, signing off of contracts, agreements and frameworks for externally funded projects, signing off of views sought by the Planning Inspectorate, Marine Management Organisation and neighbouring authorities.

Signed: 

Date: 27/2/19

Name: Stephanie Holt-Castle

Title: Interim Director, Environment, Planning and Enforcement

Signed: B. Cooper

Date: 14/3/19

Name: Barbara Cooper

Title: Corporate Director, Growth, Environment and Transport

Lodged with the Monitoring Officer:

Date:

APPENDIX A – BACKGROUND AND GUIDING PRINCIPLES

1. Before exercising any authority, Officers must satisfy themselves that they have necessary delegated powers as specified in this Scheme either generally or in relation to their specific role.
2. The powers delegated to officers exclude the authority to take Key Decisions. Constitution, Executive Scheme of Officer Delegation.
3. Decisions which an officer takes under delegated powers must:
 - implement a policy or decision previously approved or taken by the Cabinet or a Cabinet Member or
 - facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by the Cabinet or a Cabinet Member or
 - relate to the management of the human, material and financial resources made available for the functions for which they are responsibleConstitution, Executive Scheme of Officer Delegation.
4. Officers to whom matters have been sub-delegated may escalate the making of those decisions to the relevant Corporate Director, who can then (if appropriate) refer the matter to the Cabinet Member or Cabinet.
Constitution, Executive Scheme of Officer Delegation.
5. Officers must use the authority delegated to them:
 - a. in the interests of Kent County Council
 - b. in accordance with the provisions made in relevant revenue and capital budgets, Standing Orders, the Financial Regulations or other Procedure Rules contained in the Constitution; Constitution, Executive scheme of Officer Delegation and
 - c. in accordance with the overall policies approved by the Council or its Committees
Constitution Appendix 2.
6. In exercising the authority delegated to them, Officers must
 - a. consult the relevant Corporate Director and/or the Director of Governance & Law in respect of matters which are sensitive or complex, or where legal, administrative, financial or other advice or guidance is necessary;
 - b. keep the relevant Cabinet Member properly informed of activity arising within the scope of these sub-delegations; and Constitution, Executive Scheme of Officer Delegation.
 - c. advise local Members on any matter that appears to specifically affect their division or constituency interests. Constitution Appendix 2.
7. Any manager may exercise any power delegated to an officer for whom they have supervisory responsibility. Constitution Appendix 2.
8. Officers are responsible for the management of their services and the implementation of Council and Cabinet policies and Executive Decisions. Constitution, Executive Scheme of Officer Delegation.
9. Senior Managers must record and notify the Monitoring Officer (Director of Governance & Law) of arrangements made by them for the exercise on their behalf of delegated powers granted to them. Sub-delegations should be regularly reviewed and updated if appropriate. Constitution Appendix 2.