



EMERSONS GREEN TOWN COUNCIL

# Scheme of Delegation

Date approved: 8<sup>th</sup> of January 2026

Approved by: Finance & Partnership Committee

Next Review date: January 2029

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## **1. Introduction**

This Policy sets out the principles and requirements governing the delegation of powers and functions under section 101 of the 1972 Local Government Act (LGA). Section 101 enables the authorised decision-maker to delegate specified powers or functions to another person or body, subject to any limitations or conditions prescribed by law.

The purpose of this Policy is to ensure that delegations made under section 101 are exercised lawfully, consistently, and transparently, while maintaining appropriate accountability and oversight. This Policy supports effective and efficient administration by clarifying when and how delegation may occur, the scope of delegated authority, and the responsibilities of both the delegator and the delegate.

All delegations under section 101 must comply with the Act, any other applicable legislation, and this Policy. Nothing in this Policy removes or limits the delegator's ultimate responsibility for the exercise of delegated powers, unless expressly provided otherwise by law.

## **2. S101 delegation of powers**

The Scheme of Delegation (s101 of the 1972 LGA), authorises the delegation of decision-making powers to the Clerk on behalf of the Council, where appropriate.

S101 requires formally agreed Terms of Reference by the Council. It needs to be based in Terms of Reference that sets out the key themes of the delegation and the financial thresholds that apply.

This Scheme of Delegation is a measure which may be enacted to facilitate effective decision-making in times when decisions are required outside of standard timelines. It allows the Clerk to take on the executive role during this time, above and beyond the substantive delegations contained in the Emersons Green Town Council (EGTC) Standing Orders.

## **3. Activation of Scheme of Delegation**

This Scheme of Delegation may be activated when it is considered that meetings cannot be held legally or safely, or where there are significant concerns around likely quoracy, where some Councillors may find attending meetings face-to-face challenging.

This Scheme of Delegation will be enacted by any of the following:

- The government guidance means that face-to-face meetings cannot be held legally or safely.
- A resolution is passed at a meeting of the Full Council to activate this Scheme of Delegation

- At least 50% of Councillors, including the Chairman, request the activation of this Scheme of Delegation in writing to the Clerk.
- At least 51% of Councillors request the activation of this Scheme of Delegation in writing to the Clerk.

Where the Scheme of Delegation is activated in accordance with these provisions, the Clerk will email all Councillors to this effect, confirming that this Scheme of Delegation is enacted.

#### **4. Delegation of Power**

Section 101 of the Local Government Act 1972 provides:

- That a Council may delegate its powers (except where delegation is not permitted by law) to a committee or an officer.
- A Committee may delegate its powers to an officer.
- The delegating body may exercise Powers that have been delegated.

Any delegation to the Proper Officer shall be exercised in compliance with the Council's Standing Orders, any other policies or conditions imposed by the Council and within the law.

The Proper Officer may nominate another named Officer to carry out any powers and duties, which have been, delegated to that Officer.

In an emergency the Proper Officer is empowered to carry out any function of the Council.

Where officers are contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult a minimum of two Councillors, and must ensure that they obtain appropriate legal, financial and other specialist advice before action is taken.

The following items may **not** be delegated to the Clerk:

- To appoint the Mayor and Deputy Mayor in May each year
- To sign off the Governance Statement by 30 June each year
- To set the precept
- To appoint the Head of Paid Service (Town Clerk)
- To make byelaws
- To borrow money
- To consider any matter required by law to be considered by Council.

## **5. Delegations To the Proper Officer LGA 1972 s101**

The Council's Scheme of Delegation authorises the Clerk to the Council, or nominated Council Officer, to act with delegated authority in the specific circumstances detailed:

### ***a) To take action:***

- 1) To take action on any issue that cannot wait until the next Town Council or appropriate committee meeting; as a measure the Proper Officer is empowered to take any and all decisions that would normally be taken by Full Council, or a committee or a working group, having consulted a minimum of two Councillors. Consultation may be by email or by telephone or by virtual meeting, followed by a confirmation email.
- 2) If circumstances do not permit the input of at least two Councillors, the Clerk would normally be expected to consult the Mayor/Committee Chairman, or Deputy Mayor/Committee Vice Chair if the Mayor/Committee Chairman is unavailable and take his/her view into account.

### ***b) Financial thresholds:***

- 3) To authorise expenditure on items where the Council has previously approved the budget to a maximum of £3,000 per transaction having consulted a minimum of two Councillors and the Mayor/Committee Chairman, or to a higher level where the Council has agreed & minuted the expenditure at a prior meeting. Additionally, these Councillors should be independent of the two Councillors who will authorise the payments within the online banking system. For the avoidance of doubt, this includes any payments that will be overdue before the next scheduled Council or Committee Meeting or where discounts may be lost to the Council; to include normal salaries and all items specifically budgeted for, contracted for or expenditure previously agreed by Council at a properly convened meeting.
- 4) To incur expenditure on behalf of the Council, which is necessary to carry out any repair, replacement or other work or essential project which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the expenditure, subject to a limit of £1,000.00 per transaction, having consulted the Mayor or Committee Chair and taken on board his/her views.
- 5) To take any action regarding minor repairs or purchases (up to a cost of £500.00 per transaction) having consulted the Mayor or Committee Chair and taken on board his/her views.
- 6) This Scheme of Delegation does not alter, limit, or otherwise affect the operation of the current Scheme of Financial Delegation or standing Committee Terms of Reference, which take precedence in the event of any inconsistency

### ***c) Planning Matters:***

- 7) Delegation to the Clerk in the situation where a planning application is received that requires a response prior to the next full council meeting, and no extension of time to the deadline is permitted by the Local Planning Authority, the council delegates the decision and submission of the response to the Clerk, or appropriate Committee Clerk, in consultation with the Town Council.
- 8) Planning applications will be received by the Clerk and responses determined by the Clerk following consultation with a minimum of two Councillors who are currently Councillors of the Planning Committee.
- 9) Consultation may be by correspondence, including email, remotely, or meeting in person. Decisions made under delegation will be reported to, ratified and minuted at the next meeting of the Planning Committee.
- 10) Under delegation to the Committee Clerk, and in particular with regard to controversial or major development proposals, the Clerk in consultation with the Chair of the Planning Committee, may decide that a town meeting and/or an extraordinary meeting of the council or committee be called to consider the matter.

### **6. Delegation Limitations, Record keeping & Reporting:**

- 11) In the absence of the Proper Officer for longer than 5 working days, the Proper Officer may delegate the powers conferred under this Scheme of Delegation to another Officer of the council.
- 12) Records will be kept demonstrating a clear trail (particularly around decision making in any form).
- 13) All decisions will be reported at the next available Full Council Meeting or relevant committee and be ratified.
- 14) Delegated actions shall be in accordance with Standing Orders and Financial Regulations and in line with directions given by Council from time to time and this Scheme of Delegation, and where applicable any other rules/regulations and legislation.

### **7. De-activation of Scheme of Delegation**

This Scheme of Delegation may be deactivated by any of the following:

- Changes to the government legislation effectively removing schemes of delegation
- At least 50% of Councillors, including the Chairman, request the deactivation of this Scheme of Delegation in writing to the Clerk.
- At least 51% of Councillors request the deactivation of this Scheme of Delegation in writing to the Clerk.

Where the Scheme of Delegation is deactivated in accordance with these provisions, the Clerk will email all Councillors to this effect, confirming that this Scheme of Delegation is deactivated.

**DATE ADOPTED BY FINANCE & PARTNERSHIP COMMITTEE: <DATE>**

**DATE FOR REVIEW:**

January 2029 (3 yearly), or  
earlier if there is any relevant  
change to legislation