

# **Hastings Borough Council Constitution of the Council**

## **Part 8**

### **Standing Instructions to Authorised Officers**

## The Constitution, Part 8

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## **Standing Instructions to Authorised Officers**

Adopted by Council on 25 July 2007, revised 23 July 2008, 16 December 2009 and 21 March 2012.

### **Introduction**

1. The Constitution Part 3 sets out delegations from the Council to Committees.
2. These Standing Instructions contain delegations from the Cabinet and Council to Authorised Officers.
3. This is not an exhaustive statement of all their individual duties, which are to be found in the job descriptions, Council and committee resolutions, instructions given or issued by the Directors from time to time, and this Constitution.

### **Definitions**

4. The Chief Finance Officer for the purposes of the Local Government Act 1972 section 151 and the Local Government Finance Act 1988 section 114 is the Head of Financial Services.
5. The Monitoring Officer for the purposes of section 5 Local Government and Housing Act 1989 is the Head of Corporate Services.
6. "Chief Officers" are the Directors.
7. "Authorised officers" are the Chief Officers, Heads of Service and their nominees.
8. "Nominees" are officers that the Chief Officers or Heads of Service have authorised to act on their behalf. Nominees may also be contractors, or officers of another authority acting on behalf of the Council.
9. The Lead member is the Cabinet Member nominated by the Leader of the Council for the purpose either generally or at a specific time or for a specific purpose. In the absence or unavailability of a Lead member, the Leader of the Council may act in place of the Lead member.
10. The discharging of functions means being ultimately accountable for decisions regarding a function under an Act of Parliament. It includes accountability under any Regulations, Statutory Instrument, other subordinate legislation, or byelaw, and any legislation re-enacting or amending the Act.

### **Assumption of full delegation**

11. Authorised Officers discharge the functions delegated to them through appropriately qualified officers.
12. In relation to the delegations set out in these Standing Instructions, it is intended to delegate the Council's functions fully to Authorised Officers and, through them, to all other officers acting under these Instructions except where otherwise provided in statute, regulations, or this Constitution.
13. For the avoidance of doubt, delegations are particularised for identification purposes only and do not diminish or restrict in any way a general delegation by Council and

Cabinet to Authorised Officers and, through them, to all other officers acting under these Instructions.

14. The powers delegated to Authorised Officers and, through them, to all other officers acting under these Instructions in performance of those functions include, but are not limited to:
- a. The service of notices, including under Section 16 Local Government (Miscellaneous Provisions) 1976.
  - b. Carrying out work in default and recovery of the cost of such works.
  - c. The investigation of alleged offences and prosecution of offenders or issue of a formal caution with the approval of the Chief Legal Officer.
  - d. Exercise of powers of entry.
  - e. Application for warrants of entry.
  - f. Application for court orders with the approval of the Chief Legal Officer.
  - g. Determination of grant entitlement.
  - h. Exercise of any discretion on behalf of the Council.
  - i. The grant, renewal or variation of any licence, consent, permit, registration or other authorisation to be granted by the Council under any Act of Parliament or subordinate legislation, either with or without conditions (including standard conditions), and in accordance with any criteria approved by the Council or the Cabinet.
  - j. The refusal of an application except where there is a legal right for, or the Council policy permits the applicant to make representations in person; or if the application is a caravan site licence unless the Chief Legal Officer agrees.
  - k. Imposing non-standard conditions subject to the Chief Legal Officer approval or waiver of this requirement.
  - l. Any action reasonably required for the investigation or detection of offences or breaches of conditions including the appointment of investigating officers and disclosure officers under the Criminal Procedure and Investigations Act 1996 and the authorisation of directed and covert human intelligence source under Sections 28 and 29 Regulation of Investigatory Powers Act 2000.
  - m. Authorising any legal proceedings under any legislation, subordinate legislation, orders or byelaws in their respective areas of responsibility (including prosecutions and applications for injunctions) with the approval of the Chief Legal Officer.
  - n. Authorising the defence of any appeal to the courts or application for judicial review or the settling any such proceedings with the approval of the Chief Legal Officer.
  - o. Exercising any statutory rights of entry, and statutory rights to seize or impound any goods, food or animals or take samples, including authorising and making applications to magistrates for warrants or authorisations subject to any directions from the Chief Legal Officer.
  - p. Authorising and serving any notice authorised by the legislation in accordance with any guidance given by the Chief Legal Officer
  - q. Authorising other persons (including but not limited to officers) to act as an authorised officer, authorised inspector, inspector or proper officer to carry out any statutory function which the Authorised Officer is authorised to discharge.

- r. Authorising the making of any order (other than a compulsory purchase order) authorised by the legislation after consultation with the Chief Legal Officer and, if the Order confers a statutory right to compensation, with the consent of:
  - i. The Director with responsibility if the total estimated compensation liability is up to £50,000; or
  - ii. The Director with responsibility together with the Chief Finance Officer if the total estimated compensation liability is between £50,000 and £100,000; and
  - iii. The Director with responsibility together with the Chief Finance Officer and in consultation with the relevant Lead member if the total estimated compensation liability is over £100,000.

### **Limitations on powers to act**

15. The power to act of the Directors or any other officer is subject to compliance with:

- a. Council policy and decisions;
- b. Cabinet, Council Committee or Cabinet Committee decisions;
- c. All relevant legal requirements;
- d. The provisions of this Constitution including the Financial Rules.

### **Urgency provisions**

16. In the event of urgency, which shall be determined by the Monitoring Officer, i.e. when due to time constraints it is not possible for the decision on a matter, which:

- a. is reserved to Cabinet under the Financial Rules; or
- b. is not in accordance with Cabinet policy;

to be taken by Cabinet in time, without convening a special meeting of Cabinet, the Director with responsibility or his/her nominee may take the decision, in consultation with the Leader of the Council, relevant Lead Member and Opposition Group Leaders. The decision and the reasons for urgency shall be reported to the next meeting of the Cabinet.

17. The Authorised Officers acting under these Instructions must ensure that the relevant Lead member is made aware of all issues of significant public interest or sensitivity before taking action.

18. The Authorised Officers acting under these Instructions are not obliged to exercise the powers delegated to them under these Instructions and may, whenever they deem it appropriate, consult the relevant Lead member or refer the matter to the Cabinet for decision.

## **Part 1: Matters Reserved to Council**

19. The following matters are reserved to Council and cannot be delegated to Officers:

- a. Changes to major policy decisions of the Council;
- b. Changes to the budget approved by the Council, except as provided for in the Financial Rules;
- c. Changes to this Constitution.

## **Part 2: Matters Reserved to the Chief Legal Officer**

### **Statutory Responsibilities**

20. The Chief Legal Officer is the Council's Proper Officer and authorised for the following purposes:

Local Government Act 1972:-

Section 83 - Members Declarations of Acceptance of Office  
Section 84 - Resignation of Members  
Section 88 - Convening meeting of Council to fill casual vacancy in office of Chair  
Section 89 - Receipt of notice of vacancy  
Section 100B(2) – Designation of reports “not for publication”.  
Section 204 - Notices of Licensing Applications  
Section 210(6) and (7) - Charity functions  
Section 212 (& Section 19) - Land Charges Act 1925 Local Land Charges  
Section 225 - Deposit and safekeeping of documents  
Section 229 - Certification of photographic copy documents  
Section 234 - Authentication of documents  
Section 236 and 238 - Byelaws  
Section 248 - Roll of Freeman  
Schedule 12 para 4(2)(b) - Summonses for Council meetings  
Schedule 12 para 4(3) - Notices of addresses to which Council summons is to be sent  
Schedule 14 para 25(7) - Certification of resolutions.

Local Government Act 1974:-

Section 30(5) - Giving Notice about Ombudsman's Reports.

Local Government (Miscellaneous Provisions) Act 1976:-

Section 41 - Evidence of resolutions and minutes.

Highways Act 1980:-

Section 321 - Authentication of documents.

21. The Chief Legal Officer is the Solicitor to the Council and is responsible for the provision of professional legal services and advice to the Council and the carrying out of the Council's legal transactions. The Chief Legal Officer is also responsible for the conduct of the Council's litigation before all courts and including public inquiries, tribunals, arbitration, and mediation.

22. The Chief Legal Officer is responsible for the safekeeping of the Council's Common Seal, its deeds and documents and for the signing and sealing of documents on the Council's behalf.

23. The Chief Legal Officer is responsible for professional legal work and advice in support of all regulatory functions including the conduct of appeals and prosecutions except where such legal work is carried out by or under the control another officer (e.g.

collection of Council Tax and non-domestic rates which is the responsibility of the Head of Finance) under the general oversight of the Chief Legal Officer.

24. The Chief Legal Officer has co-extensive authority with the Director of Environmental Services to appoint authorising officers under the Regulation of Investigatory Powers Act 2000.

### **Other Responsibilities**

25. The Chief Legal Officer is responsible as Clerk/Secretary to certain charitable trusts administered by the Council.
26. The Chief Legal Officer or his/her nominee is authorised to take the action on behalf of the Council set out in the following paragraphs subject to the conditions or limitations shown:
- a. Signing and/or sealing any deed or document which is reasonably required to give effect to any decision of the Council, or of a committee or sub committee acting under delegated powers or any officer authorised to discharge the relevant functions on the Council's behalf.
  - b. Sign and/or seal any receipt, discharge or release on the repayment of monies due, the due performance of any contract, bond or obligation, or otherwise as authorised by the Council, a committee or sub committee or an officer authorised to discharge the relevant function on behalf of the Council.
  - c. To take any legal action to recover monies owed to the Council or to recover land or property belonging to the Council including registration of land charges, obtaining orders for possession and/or sale of land or distraint for rent.
  - d. Enforcing Orders for possession or sale or peaceably re-entering land:
    - i. where premises actually occupied by persons other than trespassers in consultation with the relevant Lead member;
    - ii. in all other cases.
  - e. To direct unauthorised campers to leave land within the Council's area and to take action for their removal under Sections 77-79 Criminal Justice and Public Order Act 1994.
  - f. To prosecute for contravention of byelaws.
  - g. To give a certificate of consultation where the Council is consulted in relation to anti-social behaviour orders, a certificate of approval for dispersal orders and all matters under the Anti-Social Behaviour Act 2003.



### **Part 3: Matters Reserved to Authorised Officers**

27. The following Authorised Officers have the regulatory responsibilities, and are authorised to discharge the functions of the Council described in these Standing Instructions to Authorised Officers:
- a. Head of Environmental Services;
  - b. Head of Housing and Planning Services;
  - c. Head of Finance;
  - d. Head of Regeneration and Planning Policy
  - e. Head of Corporate Services
28. The powers and regulatory responsibilities of the Monitoring Officer, Chief Legal Officer, Chief Finance Officer and the Directors are set out in parts 2, 4 and 5 of these Standing Instructions. The authority of the Director Environmental Services to appoint authorising officers under the Regulation of Investigatory Powers Act 2000 is set out in paragraph 22 of Part 2 of these Standing Instructions.
29. Authorised officers acting under these Instructions are authorised to discharge any functions on behalf of the Council as set out in paragraphs 10 to 16 of these Instructions.

## **Part 3a: Head of Environmental Services**

### **Statutory Responsibilities**

30. The Head of Environmental Services is the Council's Proper Officer for the purposes of the provisions of the legislation described in these Instructions insofar as it provides for there to be a 'proper officer' or 'authorised officer' authorised to act for the Council including:

- a. Public Health Acts 1936 and 1961;
- b. Prevention of Damage by Pests Act 1949;
- c. East Sussex Act 1981;
- d. Building Act 1984;
- e. Public Health (Control of Disease) Act 1984;
- f. Food Safety Act 1990.

31. The Head of Environmental Health, Parking and Highways (and certain subordinate staff) are appointed inspectors for the purposes of enforcing:

- a. Environmental Protection Act 1990; and
- b. Health and Safety at Work Act 1974.

32. The Head of Environmental Services is responsible for professional work and advice to the Council, the Cabinet, the Directors and Officers on public health, environmental control and regulation issues and the statutory regulation of licensing matters. The Head of Environmental Health is also responsible for professional work and advice to the Council, Cabinet and the Traffic Management Committee, the Directors and Officers on the Council's functions in relation to highways, traffic management and parking whether as agent for the highway authority or as principal authority.

33. The Head of Environmental Health or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the following legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function including but not limited to:

#### **A. Regulation of**

A.1 Acupuncture, tattooing, ear piercing and electrolysis including:-

Part VIII Local Government (Miscellaneous Provisions) Act 1982  
East Sussex Act 1981 (Section 27).

A.2 Animal welfare and management, including:-

Animal Boarding Establishments Act 1963  
Breeding of Dogs Act 1973 and 1991  
Dangerous Wild Animals Act 1976  
Guard Dogs Act 1975  
Pet Animals Act 1951  
Riding Establishments Acts 1964 and 1970  
Slaughterhouses Acts 1974 and 1981  
Slaughter of Poultry Act 1967  
Zoo Licensing Act 1981.

A.3 Betting, gaming and lotteries including amusements with prizes:-

Part III Gaming Act 1968.

Lotteries (except local authority run lotteries):-

Lotteries and Amusements Act 1976

Lotteries Regulations 1993.

Pool betting promoters:-

Betting Gaming and Lotteries Act 1963.

Track betting licences:-

Betting Gaming and Lotteries Act 1963.

Gambling:-

Gambling Act 2005.

A.4 Boats, including:-

Part IV Public Health (Control Of Disease) Act 1984

Public Health Acts Amendment Act 1907

East Sussex Act 1981 (Section 10(2)).

A.5 Camping and caravan sites, including:-

Public Health Act 1936 (Section 269)

Caravan Sites and Control Of Development Act 1960.

A.6 Charitable and similar collections, including:-

House To House Collections Act 1939

Police, Factories etc. (Miscellaneous Provisions) Act 1916;

Part III Charities Act 1992;

Charities Act 2006

A.7 Cinemas, including:-

Cinemas Act 1985

Licensing Act 2003.

A.8 Food premises, food production and sale, including:-

Food Safety Act 1990

East Sussex Act 1981 (Section 25)

Local Government (Miscellaneous Provisions) Act 1982 - Sections 4,5,6,19

Dairy Products (Hygiene) Regulations 1995.

A.9 Game:-

Game Act 1831  
Game Licences Act 1860.

A.10 Late night refreshment houses, including:-

Licensing Act 2003.

A.11 Liquor licensing and regulated entertainment:-

Licensing Act 2003.  
Police Reform and Social Responsibility Act 2011

A.12 Public and private entertainment licensing:-

Part IX East Sussex Act 1981  
Licensing Act 2003.

A.13 Taxis (hackney carriages) private hire cars and horse drawn omnibuses, including:-

Town Police Clauses Act 1847 And 1889  
Part II Local Government (Miscellaneous Provisions) Act 1976  
Transport Act 1980 (Section 64)  
Transport Act 1985 (Sections 10-16)  
Local Services (Operation by Taxis) Regulations 1986  
Disability Discrimination Act 1995.

A.14 Scrap metal dealers, including:-

Scrap Metal Dealers Act 1964  
Motor Salvage Operators Regulations 2002  
Disability Discrimination Act 1995.

A.15 Security of industry, including:-

Licensing Of Door Supervisors  
Private Security Industry Act 2001.

A.16 Sex establishments, including:-

Part II Local Government (Miscellaneous Provisions) Act 1982.  
Policing and Crime Act 2009

A.17 Street trading, including:-

Part III Local Government (Miscellaneous Provisions) Act 1982  
Children and Young Persons Act 1933 (Section 20)  
Children and Young Persons Act 1963 (Section 35).

A.18 Sunday trading, including:-

Sunday Trading Act 1994.

A.19 Theatres, including:-

Theatres Act 1968  
Sunday Theatre Act 1972  
Licensing Act 2003.

A.20 Miscellaneous Activities, including:-

Self operated laundries and dry cleaners:-

East Sussex Act 1981 (Section 24).

Temporary markets:-

East Sussex Act 1981 (Section 37).

34. The Head of Environmental Health, Parking and Highways is authorised to act and to appoint alternative proper officers and authorised officers for the purposes of the following legislation:

## **B. Public Health and Environmental Protection**

Public Health Acts  
Public Health (Control of Disease) Act 1984  
National Assistance Act 1948 and National Assistance (Amendment) Act 1951

B.1 Public Health Act 1936 Sections – including:-

Section 45 - Buildings with defective closets  
Section 50 - Overflowing and leaking cesspools  
Section 51 - Care of water closets/earth closets  
Section 52 - Common water closets  
Section 78 - Scavenging of common courts and passages  
Section 83 - Cleansing filthy or verminous premises  
Section 84 - Cleansing or destruction of filthy or verminous articles  
Section 85 - Cleansing of verminous persons and clothing  
Section 140 - Polluted sources of water supply  
Section 268 - Statutory nuisance from use of tents, vans, sheds, etc.

**B.2 National Assistance Act 1948 And National Assistance (Amendment) Act 1951:-**

removal to suitable premises of persons in need of care and attention and to the Proper Officer also in the case of emergency applications under the 1951 Act.

**B.3 Public Health Act 1961, including:-**

Section 17 - Defective and stopped-up drains etc.

Section 22 - Cleansing and repairing drains

Section 34 - Accumulations of rubbish

Section 35 - Filthy or verminous premises

Section 36 - Fumigation of premises

Section 37 - Disinfecting or destroying household articles intended for sale.

**B.4 Building Act 1984, including:-**

Section 59 - Proper provision of drainage

Section 64 - Closets to be provided in buildings

Section 65 - Sanitary conveniences to be provided in workplaces

Section 70 - Food storage accommodation to be provided in houses

Section 71 - Satisfactory means of ingress and egress to and from buildings

Section 72 - Means of escape in case of fire

Section 76 - Carrying out works in default

Section 93 - Requisition for information

Section 113 - Prosecutions.

**B.5 Prevention Of Damage By Pests Act 1949, including:-**

Section 4 - Notice to keep land free of rats and mice

Section 5 - Works in default

Section 6 - Notice to eradicate rats and mice.

**B.6 East Sussex Act 1981 Sections, including:-**

Section 17 - Dust from building operations

Section 19 - Urgent repairs to water pipes and fittings

Section 20 - Control of rats and mice

Section 21 - Rights of entry under Prevention of Damage by Pest Act 1949

Section 22 - Control of foxes

Section 23 - Control of brown tail moth

Section 32 - Touting, hawking and photographing etc.

**B.7 Control of Pollution Act 1974, including:-**

Section 60 - Control of noise on construction sites

Section 61 - Prior consent for work on construction sites

Section 62 - Loudspeakers in streets

Section 80 - Notices about air pollution

Section 91 - Rights of entry

Section 93 - Requisitions for information.

**B.8 Local Government (Miscellaneous Provisions) Act 1976, including:-**

Section 16 - Requisitions for information as to ownership of land  
Section 20 - Sanitary facilities to be provided/maintained at places of entertainment  
Section 35 - Obstruction of private sewers.

B.9 Public Health (Control Of Diseases) Act 1984.

B.10 Public Health (Infectious Diseases) Regulations 1988:-

Schedule 3 - Notices re typhus or relapsing fever  
Schedule 4 - Notices re food poisoning and food borne infection.

B.11 Food And Environment Protection Act 1985 (as Amended).

Environmental Protection

B.12 Environmental Protection Act 1990

Part I Integrated Pollution Control, Air Pollution including:-

Section 6 - To grant or refuse authorisation for prescribed processes and collect fees.

Section 7 - To decide what conditions (other than approved standard conditions) are to apply to individual authorisations.

Section 9 - To receive notices of transfers of authorisations from one holder to another.

Section 10 - To vary conditions on which authorisations have been granted whether following a direction from the Secretary of State or not, and serve variation notices. To give notice advising of requirement for substantial change in manner of carrying out an authorised process.

Section 11 - To issue determinations on proposals to change an authorised process. To refuse applications for the variation of an authorisation or to issue a variation notice.

Section 12 - To revoke a Section 6 authorisation for a prescribed process:

- a. where reason to believe authorised process not carried out at all or at any time during the last 12 months;
- b. upon the direction of the Secretary of State;
- c. in any other case.

Section 13 - To serve enforcement notices for breach of conditions of authorisation or anticipated breach requiring remedial or preventative action to be taken within a set period.

Section 14 - To serve prohibition notices to prevent imminent risk of serious pollution from an authorised process requiring steps to be taken and suspending the authorisation until the notice is partly or wholly withdrawn.

Section 15 - To deal with appeals to the Secretary of State.

Section 16(6) - To appoint suitably qualified persons (including employees or consultants) as Air Pollution Inspectors to advise and carry out the functions of Inspectors under Part I of the Act.

Section 19 - To serve notice requiring specified information to be provided (Requisitions for Information).

Section 20 - To maintain the statutory public register of information about prescribed processes; applications, authorisations, variations, etc.

Sections 22(2) & (4) - To determine whether information provided in support of applications or otherwise obtained is commercially confidential (and should be excluded from the public register) or not.

Section 59 - To require removal of waste unlawfully deposited.

Part IIA Contaminated land

Part III Statutory Nuisances And Clean Air including sections:-

Sections 80/80A - Abatement notices

Section 81 - Abatement notices - supplementary provisions.

Part IV Provisions relating to litter as well as Refuse Disposal (Amenity) Act 1978

Schedule 2 in relation to the Act, and subordinate legislation including:-

Control of Pesticides Regulations 1986

Pesticides (Fees And Enforcement) Regulations 1989.

Clean Neighbourhoods and Environment Act 2005

Food Safety

B.13 Food Safety Act 1990, including:-

Section 7 - Rendering food injurious to health

Section 8 - Selling food not complying with food safety requirements

Section 9 - Inspection and seizure of food

Section 14 - Food not of the quality of substance demanded

Section 19 - Registration and licensing of food premises

Section 27 - Appointment of public analyst

Sections 29 and 30 - Procurement and analysis of samples

Section 32 - Power of entry, seizure etc.

Section 33 - Obstruction of officers.

B.14 Food Safety (General Food Hygiene) Regulations 1995.

B.15 Water Industry Act 1991, including:-

Sections 77 to 85 - Sufficiency and wholesomeness of water supply



Clean Air:-

B.16 Clean Air Act 1993.

Noise – see also Environmental Protection Act 1990 above:-

B.17 Noise And Statutory Nuisance Act 1993.

B.18 Environment Act 1995.

B.19 Noise Act 1996.

B.20 Anti-Social Behaviour Act 2003.

Clean Neighbourhoods and Environment Act 2005.

Health Act 2006 Part I

### **C. Health and Safety at Work**

C.1 Health And Safety At Work Act 1974 (the Act), where the Council is the enforcing authority, including:-

Section 19 - Enforcement

Section 20 - Inspectors powers

Section 21 - Improvement notices

Section 22 - Prohibition notices

Section 25 - Action to deal with cause of imminent danger

Section 33 - Prosecutions

Section 39 - Prosecutions by inspectors.

And all health and safety regulations made under the Act and otherwise.

C.2 Control of Asbestos at Work Regulations 2002.

### **D. Regulation of Investigatory Powers Act 2000**

Nomination of authorising officers for the purpose of directed surveillance or the use of a covert human intelligence source.

### **E. Anti-Social Behaviour**

Including:-

E.1 Crime and Disorder Act 1998.

E.2 Noisy premises, including:-

Anti-Social Behaviour Act 2003.

**E.3 Graffiti and Flyposting, including:-**

Town and Country Planning Act 1990  
Anti Social Behaviour Act 2003  
Clean Neighbourhoods and Environment Act 2005

**E.4 Sale of aerosol paints, including:-**

Anti-Social Behaviour Act 2003.

**F. Dogs**

**F.1 Control of Dogs:-**

Clean Neighbourhoods and Environment Act 2005.

**F.2 Control of stray dogs, including:-**

Dogs Act 1906  
Environmental Protection Act 1990  
Control of Dogs Order 1992.

**F.3 Control of Dangerous Dogs, including:-**

Dogs Act 1871  
Dangerous Dogs Act 1991.

**F.4 Control of Dog Fouling, including:-**

Dogs (Fouling of Land) Act 1996.

**F.5 Control of Dogs on Roads, including:-**

Road Traffic Act 1988.

**G. Civil Contingencies**

Civil Contingencies Act 2004

**H. Highways, Traffic and Parking**

**H.1 Regulation and control of use of highways, highways and traffic management where the East Sussex County Council has arranged for Hastings Borough Council to discharge its functions:-**

Highways Act 1980  
Road Traffic Regulation Act 1984  
Road Traffic Act 1991  
Parking Act 1989.

**H.2 Regulation and control of use of highways, traffic management, and off-street parking where a district council is authorised to act:-**

Towns Improvement Clauses Act 1847 (Street Numbering)  
Town Police Clauses Act 1847  
Public Health Act 1925 (Naming of Streets to be subject to consultation with the relevant lead member)  
Highways Act 1980  
Road Traffic Regulation Act 1984 (Road Traffic Orders to be subject to consultation with the relevant Lead member)

Transport Act 1985 (Objections to applications to Traffic Commissioners) (after consultation with the relevant Lead member).  
Road Traffic Act 1991

H.3 Nuisance parking, abandoned vehicles and illegally parked vehicles:-

Clean Neighbourhoods and Environment Act 2005

## **I. Seashore and Access**

East Sussex Act 1981:-

Section 11 - Removal of boats from the highway or where obstructing access to the seashore.

35. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 10 to 16 above.

## **J. Abandoned Property, Litter and Waste**

Including:-

J.1 Refuse Disposal (Amenity) Act 1978

J.2 Clean Neighbourhoods and Environment Act 2005.

J.3 Environmental Protection Act 1990, including:-

Section 33 - Prohibition on unauthorised or harmful deposit etc of waste  
Section 34 - Duty of care as respects waste  
Section 46 - Receptacles for household waste  
Section 47 - Receptacles for commercial and industrial waste  
Section 55 - Recycling waste  
Section 59 - Removal of waste unlawfully deposited  
Section 60 - Interference with receptacles for waste  
Section 87 - Offence of leaving litter  
Section 88 - Fixed penalty notices  
Section 92 - Summary proceedings by litter authorities  
Section 93 - Street litter control notices  
Section 99 and Schedule 4 - Shopping Trolleys

J.4 Schedule 4 Environmental Protection Act 1990, including:-

Shopping Trolleys.

J.5 East Sussex Act 1981, including:-

Section 11 - Removal of boats from highways or where obstructing access to the seashore

Section 12 - Removal of boats from seashore.

36. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

## **Part 3b: Head of Housing and Planning Services**

### **Statutory Responsibilities**

37. The Head of Housing and Planning Services is responsible for professional work and advice for the Council, the Cabinet, the Directors and Officers on the provision of the Council's housing services and housing policies and strategies. The Head of Housing and Planning Services is the Council's Proper Officer and Authorised Officer for the purposes of Part XVIII Housing Act 1985.
38. The Head of Housing and Planning Services is responsible for operating the Council's homelessness and housing allocation functions and the enforcement of housing and landlord and tenant legislation relating to dwellings.
39. The Head of Housing and Planning Services or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the following legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function and responsibilities including but not limited to:

#### **A. Homelessness and Allocation of Housing**

Including:-

Part XVIII Housing Act 1985  
Parts VI And VII Housing Act 1996  
Homelessness Act 2002

#### **B. Private sector housing**

##### **B.1 Housing Act 1985, including:-**

Sections 189 to 198 - Repairs notices  
Sections 264 to 269, 276 to 278 - Closing orders  
Sections 315 to 320 - Enforcement provisions  
Section 331 - Overcrowded dwellings - action against landlord  
Section 338 - Overcrowded dwellings - action against occupier  
Section 346 - Registration of houses in multiple occupation  
Section 350 - Information to be provided  
Section 352 and 354 - Notice regarding houses in multiple occupation  
Section 356 - Requisitions for information about ownership etc.  
Section 358 - Prosecution - non-compliance with overcrowding notice  
Section 364 - Requisition for information where overcrowding notice in force  
Sections 365 and 368 - Acceptance of undertakings in respect of housing in multiple occupation  
Section 369 - Making management regulations for a house in multiple occupation (Chief Legal Officer to be consulted)  
Section 372 - Action for non-compliance with management regulations  
Section 375 - Works in default  
Section 376 - Prosecutions  
Section 377 - Magistrates orders for works in default

Section 395 - Rights of entry  
Section 396 - Penalty for obstruction  
Section 397 - Warrants of entry.

To charge for and recover the cost of enforcement action under Housing Act 1985 and Housing Grants Construction And Regeneration Act 1996.

#### B.1.1. Housing Act 2004:-

Part I - Housing conditions

Part II - Licensing of houses in multiple occupation

Part III - Selective licensing of other residential accommodation

Part IV - Additional control provisions in relation to residential accommodation.

Part VII:-

Register of licences and management orders

Enforcement of management regulations

Power to require and enforcement of power to obtain information.

Use of information obtained for certain other statutory purposes

Offence of supply of false or misleading information

Powers of entry and enforcement of the power of entry including prosecution for obstruction

Authorisations for enforcement purposes

House in multiple occupation declarations and revocation of declarations.

#### B.1.2 Public Health Act 1936 including:-

Section 45 - To put defective closets into repair

Section 287 - Notice before entry.

#### B.1.3 Public Health Act 1961, including:-

Section 17 - Remedying a defect in a stopped up drain, private sewer, water closet, waste pipe/soil pipe.

#### B.1.4 Local Government (Miscellaneous Provisions) Act 1976 – blocked private sewers

#### B.1.4 Building Act 1984, including:-

Section 59 - Repair or renewal of defective drainpipe, rainwater pipe etc

Section 72 - Means of escape in case of fire

Section 76 - Remedying of defective premises

Section 84 - Notice requiring paving and drainage of yards

Section 95 - Notice before entry for the purpose of inspection.

#### B.1.5 Environmental Protection Act 1990, including:-

Section 80 - Abatement notice

Schedule 3 - Notice before entry.

#### B.2 Rent Act 1977, including:-

Sections 139 and 150 - Tenants to notify landlord of sublettings  
Section 149 - Information for landlords and tenants  
Part IX and Section 150 - Unlawful premiums etc.

B.3 Rent Agriculture Act 1976:-  
Section 20 - Unlawful premiums etc.

B.4 Landlord And Tenant Act 1985, including:-

Section 1 - Landlords failure to give name and address

Sections 2,6,7 and 34 - Non-disclosure of names and addresses of directors and secretary of residential landlord company

Sections 3 and 34 - Failure to notify residential tenant of assignment of landlord's interest

Sections 4,5 and 7 - Failure to provide rent book or information required

Sections 21,25 & 34 - Failure of landlord/lessor to provide summary of costs relating to service charges

Sections 22,23,25 and 34 - Failure to provide facilities for inspection of accounts relating to service charges

Sections 23(1), 25 and 34 - Failure of superior landlord to provide information requested re service charges.

B.5 Unlawful eviction and harassment

Protection From Eviction Act 1977 (As Amended)

B.6 Local Government (Miscellaneous Provisions) Act 1976, including:-

Section 33 - Restoration of private tenants' water, gas or electricity supply

B.7 East Sussex Act 1981, including:-

Section 19 - Urgent repairs to water pipes and fittings.

B.8 Accommodation Agencies Act 1953, including:-

Section 1 - Illegal commissions and advertisements.

B.9 Local Government (Miscellaneous Provisions) Act 1982 including:-

Sections 29-32 – Protection of buildings

### **C. Housing grants**

Including:-

Housing Grants, Construction and Regeneration Act 1996  
Financial Assistance Policy.

### **D. Renewal Areas Part VII Local Government and Housing Act 1989**

Including:-

Section 93(5) - Financial assistance in renewal area  
Section 97 - Powers of entry and penalty for obstruction.

40. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

41. The Head of Housing and Planning Services (the Authorised Officer) is responsible for professional work and advice for the Council, Cabinet, the Planning Committee, the Directors and Officers on town and country planning, building control and engineering.

42. The Authorised Officer or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the Planning legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function and responsibilities including but not limited to the following:

43. Applications:

- a. Planning permission including approval or reserved matters;
- b. Listed buildings consent and conservation area consent;
- c. Consent for the display of advertisements;
- d. Hazardous substances consents;
- e. Approvals required under the Town and Country Planning (General Permitted Development) Order 1995 and determining whether prior approval is required;
- f. Approval of any matters required to be submitted pursuant to conditions imposed on any permission, consent or approval given under the Town and Country Planning Acts;
- g. All applications for prior determination for telecommunications apparatus.
- h. To enter into a Section 106 agreement where the application can be granted under delegated authority and to vary a Section 106 agreement whether or not the original application was determined under delegated authority. Where the original application was determined by the Planning Committee, the Head of Housing and Planning Services is authorised to amend the agreement in consultation with the Chair of the Committee.

44. This authority is subject to the following exceptions:



- a. The application has attracted three or more letters of objection from different households or businesses, or a petition as defined in Standing Orders where the Head of Housing and Planning Services or his nominee intends to recommend permission, consent or approval.
  - b. The Chair of the Planning Committee has referred any application to the Planning Committee, or
  - c. Any Member of the Council with the consent of the Chair or a Ward member, has given written notice to the Head of Housing and Planning Services within 28 days of registration of an application requiring that application to be considered by the Planning Committee, or
  - d. The application relates to or affects Council owned land and the application is submitted by or on behalf of the Council and there is one or more objectors to the application, or
  - e. The application is submitted by, or on behalf of, a serving Member or officer of the Council where the officer is employed in a politically restricted post and/or within the Council's planning service, or
  - f. The Planning Committee otherwise direct in respect of any particular application or reserved matter; or
  - g. The Head of Housing and Planning Services has referred an application or matter to the Planning Committee, or
  - h. Any proposal which has within the previous two years been refused by Planning Committee, including any revision or amendment to a previously refused scheme.
45. Any matters in the application of the:
- a. Town and Country Planning General Regulations 1992;
  - b. Town and Country Planning (General Permitted Development) Order 1995;
  - c. Town and Country Planning (General Development Procedure) Order 1995;
  - d. Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989;
  - e. Town and Country Planning (Assessment of Environmental Effects) Regulations 1988;
  - f. Town and Country Planning (Use Classes) Order 1987 including the conduct of appeals in consultation with the Chief Legal Officer
46. All consents under the Tree Preservation Order Regulations.
47. All certificates of lawfulness of existing use or development or of proposed use or development.
48. To authorise enforcement action under the Town and Country planning legislation except:
- a. Where the Chair of the Planning Committee has referred the matter to the Planning Committee or any Member of the Council has given written notice to the Head of Housing and Planning Services requiring the matter to be considered by the Planning Committee;
  - b. If the expenditure likely to be incurred by the Council as a consequence of the action is not provided for in the Revenue Budget or authorised in accordance with this instruction.

49. The making of emergency tree preservation orders and confirming them if no objections are received.
50. Service of notices in respect of dangerous trees (Section 23 of the Local Government (Miscellaneous Provisions) Act 1976).
51. The Council's functions in relation to high hedges under Part VIII Anti-Social Behaviour Act 2003.
52. Service of requisitions for information about ownership and planning contravention notices seeking information about breaches of development control.
53. Planning (Listed Buildings and Conservation Areas Act 1990 including building preservation orders and temporary listings.
54. Building control and land drainage: the Council's functions under the following legislation:

A.1.1 Building Act 1984, including:- ***this has been retained as we still need to have the delegation in place even though RDC perform the function for HBC, in case HBC wants in a given instance to exercise the function itself.***

Section 8 - Determination of applications for relaxation of or dispensation with building regulations

Section 16 - Passing or rejection of plans

Section 18 - Building over sewer

Section 19 - Use of short-lived materials

Section 20 - Renewal of period for short-lived materials

Section 24 - Provision of exits

Section 25 - Provision of water supply

Section 32 - Building plans

Section 35 - Penalty for contravention of building regulations

Section 36 - Removal or alteration of offending work

Section 72 - Means of escape in case of fire

Sections 77 and 78 - Dangerous structures

Section 79 - Ruinous and dilapidated buildings

Section 81 - Counter notice following notice of demolition

Section 91 - Duties of Local Authorities

Section 95 - Powers of entry

Section 97 - Power to execute work

Section 99 - Prosecutions for non-compliance with notices

Section 113 - Prosecutions for offences

A.1.2 Building Regulations 1991.

A.1.4 East Sussex Act 1981, including:-

Section 35 - Means of access to buildings for Fire Brigade - building plans.

A.1.5 Hastings Borough Council Act 1988, including:-

Sections 4 and 5 - Retaining walls.

A.1.6 Building (Approved Inspectors) Regulations 1985, including:-

Section 8 - Notice of rejection of initial notice.

A.2 Land Drainage and Miscellaneous:-

A.2.1 Land Drainage Act 1991, including:-

Section 25 - Maintaining flow in watercourses.

B. Anti-Social Behaviour Act 2003

Part 8 – High hedges.

C. Local Government (Miscellaneous Provisions) Act 1982

Sections 29-32 – Protection of Buildings

55. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

## **Part 3c: Head of Finance**

### **Statutory Responsibilities**

56. The Head of Financial Services (the Authorised Officer) is responsible for collection of local taxation and for advising the Council, Cabinet, and Directors and other Officers on these issues
57. The Head of Financial Services is designated as the Chief Financial Officer under Section 151 Local Government Act 1972 and the Proper Officer and Authorised Officer for the purposes of the following legislation:
- a. Collection of Taxation
  - b. Local Government Finance Act 1992
  - c. Council Tax (Administration and Enforcement) Regulations 1992
  - d. Local Government Finance Act 1988
  - e. Local Government Finance Act 1989
  - f. Non-Domestic Rating (Collection and Enforcement) Regulations 1989
  - g. Housing Benefit Regulations: determining claims for housing benefit; reviewing determination of claims; recovery of overpayments
  - h. Council Tax Benefit: determining claims for benefit.
58. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

## **Part 3d: Head of Regeneration and Planning Policy**

### **Statutory Responsibilities**

59. The Head of Regeneration and Planning Policy is responsible for professional work and advice for the Council, the Cabinet, the Directors and officers in relation to the Council's functions relating to crime and disorder.
60. The Head of Regeneration and Policy or officers (which may include contractors and officers of another authority acting on behalf of the Council) duly authorised in writing by him/her is authorised to discharge the Council's functions under the following legislation and any other legislation conferring powers and/or duties exercisable by the Council which bear upon his/her function and responsibilities including but not limited to:

### **A Anti-Social Behaviour**

Including:-

Anti-Social Behaviour Orders and Dispersal Orders in consultation with the Chief Constable, Sussex Police

Crime and Disorder Act 1998

Anti-Social Behaviour Act 2003

61. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

## **Part 3e: Head of Corporate Services**

### **Statutory Responsibilities**

62. The Head of Corporate Services is designated as the Monitoring Officer under Section 5 Local Government and Housing Act 1989 and the Proper Officer and Authorised Officer for the purposes of the following legislation:

Local Government and Housing Act 1989:-

Section 2 - Lists of Politically Restricted Posts

Section 5 – Monitoring Officer

Sections 15-17 Schedule 1 and Local Government (Committees and Political Groups)

Regulations 1990 - Political group and political group balance

Section 19 - Members' Interests.

Local Government Act 2000 Part III and Regulations made thereunder – Code of Conduct advice, investigation of complaints referred by the Standards Committee and all related functions. To make a temporary appointment of an independent member of a standards committee of another authority to chair an Assessment or Review Sub-Committee, where the Council's independent members are unable or unavailable to chair the meeting.

63. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Authorised Officer and his/her nominees as described in paragraphs 11 to 18 above.

## **Part 4: Matters Reserved to the Head of Financial Services as the Chief Finance Officer**

### **Financial Responsibility**

64. The Chief Finance Officer has responsibility for the financial administration services and activities, and audit of them. For these purposes, the Chief Finance Officer shall be responsible for:
- a. Implementing the Council's financial policies and for coordinating any corrective action necessary to further these policies;
  - b. Ensuring that detailed financial procedures and systems incorporating the principles of separation of duties and internal checks are prepared, documented and maintained to supplement these instructions;
  - c. Ensuring that sufficient records are maintained to show and explain the Council's transactions, in order to disclose, with reasonable accuracy, the financial position of the Council at any time;
  - d. The preparation and updating of Financial Rules for approval by the Council;
65. And, without prejudice to any other functions of Directors and employees to the Council, the duties of the Chief Finance Officer include:
- a. The design, implementation and supervision of systems of financial control; and
  - b. The preparation and maintenance of such accounts, certificates, estimates, records and reports as the Council may require for the purpose of carrying out its statutory functions.
  - c. The preparation and up-dating of the Financial Rules for approval by the Council.

### **Regulatory Responsibilities**

66. The Chief Finance Officer has shared responsibility with the Director of Corporate Resources for internal audit as set out in the Financial Rules.

### **Other Responsibilities**

67. The Chief Finance Officer shall be responsible for financial administration and advice for any charities for which the Council has undertaken responsibility for their administration.

### **Discharge of Functions**

68. The Chief Finance Officer is authorised to take action on behalf of the Council as set out below subject to any conditions or limitations shown:
69. Borrowing and Investment, including
- a. Carrying out borrowing of funds on the Council's behalf in accordance with the instructions of the Council;
  - b. Management of the Council's investment of funds not required for immediate use in accordance with the directions of Cabinet and Council.
70. Financial Approvals: to decide whether or not to give any approval required under these instructions or Regulations.
71. Mortgage Interest Rates: to fix interest rates for the purposes of Part XIV Housing Act 1985.

72. Benefit fraud investigation: authorising individual officers under Section 110A Social Security Administration Act 1992:
- a. Section 109B: power to require information and rights of entry;
  - b. Section 111A: offence of dishonest representation for obtaining benefit;
  - c. Section 112: offence of making a false representation for obtaining benefit;
  - d. Section 115A: administrative penalties as alternative to prosecution.
73. Authorising individual officers under Section 110A Social Security Administration Act 1992 to exercise any of the powers set out in Section 109(B) (Power to require information) and 109C (Powers of entry) is delegated to the Director of Corporate Resources and Chief Finance Officer only.
74. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Chief Finance Officer and his/her nominees as set out in paragraphs 10 to 16 above.

## **Part 5: General Delegation to the Directors**

### **General Delegation to the Directors and his/her Nominees**

75. All matters not reserved to Council, Cabinet, Committees, or other Officers of the Council are delegated to the Directors and their nominees, subject to the provisions of law and this constitution, including the Financial Rules. Whilst the general delegation is to all Directors, acting individually, it is usual that the Director with responsibility for the particular service area or his/her nominee exercises the delegated authority.
76. The Directors have overall executive responsibility for the Council's activities, but shall, as far as reasonably practicable, delegate the detailed responsibilities to others.

### **Statutory Responsibilities**

77. The Director of Corporate Resources is the Council's Head of the Paid Service for the purposes of section 4 Local Government and Housing Act 1989.
78. The Director of Corporate Resources is the Electoral Registration Officer.
79. The Director of Environmental Services is the Returning Officer and is the proper officer under the Representation of the People Act 1983.

### **Revenue Spending**

80. The Directors and their nominees have full powers to spend money in the revenue budget and revenue reserves as agreed by Council subject to the provisions of the Financial Rules.

### **Capital Spending**

81. The Directors and their nominees are authorised to spend money in a capital budget on schemes and projects subject to the provisions of the Financial Rules.

### **Contract Administration**

82. The Directors and their nominees are authorised to invite and accept tenders and quotations, to place orders and enter into contracts subject to the provisions of the Financial Rules.

### **Personnel Management**

83. All matters pertaining to the management of staff are delegated to the Directors and his/her nominees provided:
- a. Costs are contained within existing budget or authorised budget variations;
  - b. Council approved policies, procedures and guidelines are complied with, though exceptions are authorised in individual cases;
  - c. Matters relating to the terms and conditions of employment of the Directors are referred to the Employment Committee. The responsibility of those officers for the discharge of the authority's functions is referred to Cabinet.

### **Land and Property Management**

84. All matters pertaining to the management of Council owned or managed land, including purchase, disposal by sale or by lease or any other transaction involving land or property, the grant or refusal of requests for consents, licences or waivers with or without conditions, conduct of rent reviews, service of statutory or other notice, reference to arbitration or mediation whether as landlord or tenant, hiring or use of



Council land (including public open space within the statutory limits), is delegated to the Director of Corporate Resources subject to the provisions of the Financial Rules.

### **Financial and Other Assistance**

85. The Directors and their nominees are authorised to give grants, loans or other financial assistance in accordance with Council policy and criteria approved by Cabinet subject to the provisions of the Financial Rules.

### **Charges for Services**

86. The Directors and their nominees are authorised:-

- a. To approve charges to be made by the Council for providing any service or supplying any goods or documents or hire of land and premises or the making of a grant of any application whatsoever where a fee may be charged but is not fixed by law, in accordance with Council policies and any criteria approved by Cabinet, including waiving or reducing charges in particular instances
- b. To approve or respond to consultation on charges made by others under service contracts (e.g. Sport and Leisure Management Contract) in consultation with relevant Lead member.

### **Protecting Council Property**

87. The Directors and their nominees are authorised to prosecute, defend or settle any legal or other action to protect the Council's property or interests or to assert or enforce the Council's rights subject to the following limitations:

- a. Subject to the consent of the Chief Legal Officer.
- b. Settlement of any legal proceedings or threatened legal proceedings by or against the Council where the proposed settlement figure is over £50,000 to be with the consent of the Chief Finance Officer, Chief Legal Officer, relevant Head of Service, and in consultation with relevant Lead member. In cases of urgency the consent of the Chief Finance Officer and Chief Legal Officer only shall be required.

### **Authorisation under Social Security Administration Act 1992 (As Amended)**

88. Authorising individual officers under Section 110A Social Security Administration Act 1992 to exercise any of the powers set out in Section 109(B) (Power to require information) and 109C (Powers of entry) is delegated to the Director of Corporate Resources and Chief Finance Officer only.

### **Fixing of Hackney Carriage Fares (Local Government (Miscellaneous Provisions) Act 1976**

89. Fixing of hackney carriage fares is delegated to the Director of Environmental Services or his/her nominees subject to:

- a. Where there are no objections, consent of the relevant Head of Service and prior consultation with the relevant Lead member;
- b. Where there are objections Cabinet must agree.

### **Closure Order Under Section 40 Anti-Social Behaviour Act 2003**

90. Authorising closure of licensed premises is delegated to the Director of Environmental Services and his/her nominees.

**Responding to outside parties**

91. Responding to consultation invitations from outside parties, and commenting on any matters on behalf of the Council.

**General**

92. In relation to the delegations set out above it is intended to delegate the Council's functions fully to the Directors and their nominees as set out in paragraphs 11 to 18 above.