

**Report To:** Full Council

**Date of Meeting:** Wednesday 13<sup>th</sup> April 2022

**Report Title:** Delegation of Statutory Powers (Assistant Director, Environment and Place)

**Report By:** Jane Hartnell, Managing Director

**Key Decision:** Y

**Classification:** Open

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### **Purpose of Report**

To delegate the statutory powers previously allocated to the Assistant Director Environment and Place, following the retirement of the current post holder.

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### **Recommendation(s)**

- 1. That Council agrees and approves the delegation of the statutory powers previously allocated to the Assistant Director Environment and Place to as set out in the attached Appendix.**

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### **Reasons for Recommendations**

- The council is required to delegate statutory powers which must be reserved to certain authorised officers to discharge the functions of the council. The powers that were previously delegated to the Assistant Director Environment and Place need to be re-allocated following the retirement of the post-holder. These are interim arrangements and will be reviewed as part of the organisational re-structure planned for early in the new municipal year 2022.

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## Introduction

1. Following the retirement of the Assistant Director Environment and Place, interim management arrangements have been put in place until the full organisational restructure is undertaken early in the new municipal year.
2. The interim arrangements require the re-allocation of the relevant statutory duties as set out in the attached Appendix which Council is recommended to approve.

## Timetable of Next Steps

3. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Full council to agree delegations of statutory powers	Full council to confirm the recommended delegations	13/4/22	Jane Hartnell, Managing Director

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## Wards Affected

(All Wards);

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## Policy Implications

Reading Ease Score:

Have you used relevant project tools?: N

**Please identify if this report contains any implications for the following:**

Equalities and Community Cohesiveness	N
Crime and Fear of Crime (Section 17)	Y
Risk Management	Y
Environmental Issues & Climate Change	N
Economic/Financial Implications	Y
Human Rights Act	Y
Organisational Consequences	Y
Local People's Views	N
Anti-Poverty	N
Legal	Y

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## Additional Information

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## Officer to Contact

Jane Hartnell

[jhartnell@hastings.gov.uk](mailto:jhartnell@hastings.gov.uk)

01424 451844

### Interim allocation of Assistant Director Environment and Place Statutory Responsibilities

1. The following officers are the Council's Proper Officers 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. Building Act 1984;
- b. East Sussex Act 1981 (bye-law);
- c. Food Safety Act 1990 (as amended)
- d. Prevention of Damage by Pests Act 1949;
- e. Public Health Acts 1936 and 1961;
- f. Public Health (Control of Disease) Act 1984;

Proper officers:

- Assistant Director Housing and Built Environment
- Assistant Director Regeneration and Culture
- Corporate Customer Services Manager
- Waste and Street Cleansing Manager

2. The Assistant Director Housing and Built Environment, (and certain subordinate staff) are appointed inspectors, authorised officers or duly appointed officers for the purposes of enforcing:

- a. Environmental Protection Act 1990 (as amended); and
- b. Health and Safety at Work Act 1974.

3. The Assistant Director Housing and Built Environment, is responsible for professional work and advice to the Council, the Cabinet, the Managing Director and Officers on public health, environmental control and regulation issues and the statutory regulation of licensing matters.

4. The Assistant Director Housing and Built Environment, (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 Welfare (Licensing of Activities involving Animals) (England) Regulations 2018  
Animal Welfare Act 2006  
Breeding of Dogs Act 1991  
Dangerous Wild Animals Act 1976

Guard Dogs Act 1975  
Riding Establishments Acts 1970  
Slaughterhouses Act 1974  
Slaughter of Poultry Act 1967 (as amended by the Animal Health and Welfare Act 1984)  
Zoo Licensing Act 1981.

A.3 Betting, gaming and lotteries including amusements with prizes:-  
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.  
Mobile Homes Act 2013

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 (as amended)

A.7 Cinemas, including:-  
Licensing Act 2003.

A.8 Food premises, food production and sale, including:-  
Food Safety Act 1990 (as amended)  
Official Feed and Food Controls (EC) Regulations 2009  
Food Safety and Hygiene (England) Regulations 2013 Regulations  
(EC) 178/2002  
Regulations (EC) No. 852/2004  
853/2004  
854/2004  
882/2004  
Food Information Regulations 2014

A.9 Game:-  
Game Act 1831

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) (as amended)

Local Services (Operation by Taxis) Regulations 1986

Disability Discrimination Act 1995.

A.14 Scrap metal dealers, including:-

Scrap Metal Dealers Act 2013

Motor Salvage Operators Regulations 2002

A.15 Sex establishments, including:-

Part II Local Government (Miscellaneous Provisions) Act 1982.

Part II Policing and Crime Act 2009

A.16 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.17 Sunday trading, including:-

Sunday Trading Act 1994.

A.18 Theatres, including:-

Licensing Act 2003.

A.19 Miscellaneous Activities, including:-

Self-operated laundries and dry cleaners:-

East Sussex Act 1981 (Section 24).

Temporary markets:-

East Sussex Act 1981 (Section 37).

## **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 - Disinfested 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 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 (as amended), including:-

Section 60 - Control of noise on construction sites

Section 61 - Prior consent for work on construction sites

Section 62 - Loudspeakers in streets

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 (as amended)

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.

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

Control of Pesticides Regulations 1986

Pesticides (Fees and Enforcement) Act 1989.

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 Water Industry Act 1991, including:-  
Sections 77 to 85 - Sufficiency and wholesomeness of water supply

### **Clean Air:-**

B.15 Clean Air Act 1993 (as amended)

B.16 Health Act 2006, Part I  
Noise – see also Environmental Protection Act 1990 above:-

B.17 Noise And Statutory Nuisance Act 1993

B.18 Environment Act 1995 (as amended)

B.19 Noise Act 1996

### **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 2012.

### **D. Anti-Social Behaviour**

D.1 Noisy premises, including:-  
Anti-Social Behaviour Act 2003.

**5.** 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.

**6. The Corporate Customer Services Manager**, (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:

### **Cemetery and Crematorium**

All relevant powers, duties and functions including authority for:

- Disinfection of premises
- Disposal of dead bodies
- the approval of works and materials used in the construction of monuments.
- the approval of the erection of cemetery monuments which comply with the regulations
- governing cemeteries.
- the exercise of the powers of the Council contained in the regulations relating to the
- selection or purchase of graves or vaults.
- to approve the use of music, flags or banners in cemeteries.
- to issue notices to users and authorize works to facilitate maintenance of graves and cemeteries to meet the requirements of the memorial testing regulations
- Public Health (Control of Disease) Act 1984, section 46 - public health funerals

### **Civil Contingencies - Civil Contingencies Act 2004**

7. The Assistant Director Regeneration and Culture (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:

### **Anti-Social Behaviour**

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

Including:-

Anti-Social Behaviour Act 2003

Anti-Social Behaviour Crime and Policing Act 2014

Counter Terrorism Act 2015

Crime and Disorder Act 1998

D.2 Graffiti and Flyposting, including:-

Town and Country Planning Act 1990 (as amended)

Anti Social Behaviour Act 2003

Clean Neighbourhoods and Environment Act 2005

D.3 Sale of aerosol paints, including:-

Anti-Social Behaviour Act 2003.

D.4 Anti-Social Behaviour, Crime and Policing Act 2014

### **E. Dogs**

E.1 Control of Dogs:-

Clean Neighbourhoods and Environment Act 2005.

Anti-Social Behaviour Crime and Policing Act 2014  
Criminal Justice and Public Order Act 1994

E.2 Control of stray dogs  
Environmental Protection Act 1990 (as amended)

E.3 Control of Dangerous Dogs, including:-  
Dogs Act 1871  
Dangerous Dogs Act 1989

Dangerous Dogs Act 1991  
Town Police Clauses Act 1847

## **G. Highways, Traffic and Parking**

G.1 Regulation and control of use of highways, traffic management, and off street parking where a district council is authorized to act;  
Town Police Clauses Act 1847  
Highways Act 1980  
Road Traffic Regulation Act 1984 (as amended)  
Transport Act 1985 (Objections to applications to Traffic Commissioners) (after consultation with the relevant Lead member)  
Road Traffic Act 1991  
The Traffic Management Act 2004

### **G.2 Nuisance parking, abandoned vehicles and illegally parked vehicles:-**

Clean Neighbourhoods and Environment Act 2005  
Control of Pollution (Amendment) Act 1989

## **H. Seashore and Access**

East Sussex Act 1981 including:-  
Section 11 - Removal of boats from the highway or where obstructing access to the seashore.  
Section 12 - Removal of boats from seashore.

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

Clean Neighbourhoods and Environment Act 2005

B.20 Anti-Social Behaviour Act 2003

Clean Neighbourhoods and Environment Act 2005

## **I. Abandoned Property, Litter and Waste including:-**

I.1 Refuse Disposal (Amenity) Act 1978

I.2 Clean Neighbourhoods and Environment Act 2005.

I.3 Environmental Protection Act 1990 (as amended), including:-  
Section 33 - Prohibition on unauthorised or harmful deposit etc of waste  
Section 34 - Duty of care as respects waste  
Section 59 - Removal of waste unlawfully deposited

**8. The Waste and Street Cleansing Manager** (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:

I.3 Environmental Protection Act 1990 (as amended), including but not limited to:-  
Section 45 – Collection of Controlled Waste  
Section 55 - Recycling waste  
Section 46 - Receptacles for household waste  
Section 47 - Receptacles for commercial and industrial waste  
Section 48 - Duties of waste collection authorities as respects disposal of waste collected  
Section 60 - Interference with receptacles for waste  
Section 89 - Duty to keep land and highways clear of litter etc.