

# Mid Ulster District Council

## Scheme of Delegation for Senior Officers

First Published	March 2015
Revised	March 2020
Revised	December 2021
Revised	[March] 2024

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## 1.0 INTRODUCTION

- 1.1 This Scheme of Delegation ('the Scheme') is made by Mid Ulster District Council pursuant to Sections 2 and 7 of the Local Government (Northern Ireland) Act 2014. The Local Government (Northern Ireland) Act 2014 ('the Act') states that "a council may arrange for the discharge of any of its functions by a committee, a sub-committee, an officer of the council or by any other council". This scheme has been developed with specific reference to matters delegated to senior officers. Senior officers for the purpose of this scheme are identified in Appendix A.
- 1.2 The purpose of the Scheme is to set out the decisions and authorisations which Senior Officers can make or grant without any further reference to Council or Committees subject to, where highlighted, the relevant Committee being kept advised by means of regular reports in relation to the exercise of these delegated powers. The Scheme is designed to aid the integrated management of the organisation, the effective deployment of resources and the efficient delivery of services.
- 1.3 In line with the Act this Scheme does not delegate to Senior Officers any matter which may only be discharged by the council itself, i.e.,:
- (i) Making a district rate under the Rates (Northern Ireland) Order 1977
  - (ii) Making a determination under section 13(1) of Local Government Finance Act (Northern Ireland) 2011 (affordable borrowing limit) and monitoring an amount determined
  - (iii) Borrowing money, and
  - (iv) Acquiring or disposing of land
- 1.4 A Senior Officer may only exercise a delegated function under this Scheme subject to, and in accordance with:
- (i) The agreed plans (including but not limited to Corporate and Departmental Plans), policies, programmes and objectives approved by the Council
  - (ii) The Standing Orders, Financial Regulations, Equality Scheme, Codes of Conduct and any other relevant governance policies contained within the Council's Constitution; and
  - (iii) The agreed estimates for their Department
- 1.5 Delegation to deal with any matter shall not derogate from the power of the Council or the relevant Committee to call for a report on any decision or action taken under the Scheme.
- 1.6 A Senior Officer may, notwithstanding their power of delegation, refer a matter to the relevant Committee in any case requiring discussion or in unusual circumstances.
- 1.7 Authority to take decisions and other actions pursuant to the Scheme shall be exercised in the name of the delegated officer but not necessarily personally by them.

In the absence of the officer to whom a function is delegated, the function may be exercised by the officer(s) responsible for the performance of their duties during such absence.

- 1.8 Where the authority is given, but without naming an officer, such authority shall be deemed as authorising the Chief Executive or the appropriate Senior Officer to take such steps.
- 1.9 In any case where the exercise of a delegated power involves considerations within the remit of another Senior Officer, the Senior Officer exercising the power shall consult with that other Senior Officer prior to taking any final decision.
- 1.10 The Chief Executive may exercise the powers delegated to any Senior Officer and to any proper officer except in the relation to those functions allocated to the Chief Financial Officer, within the meaning of the Local Government Finance Act (Northern Ireland) 2011, unless he or she is appointed as the Chief Financial Officer for the purposes of the Act.
- 1.11 In the event that a Senior Officer's post ceases to exist or his or her responsibilities are transferred to another Senior Officer, temporarily or permanently, then the powers given by this scheme shall be exercisable by the Senior Officer in whose area of responsibility the power falls to be exercised.
- 1.12 Any reference in the Scheme to a statutory enactment includes reference to any subordinate legislation made under it and to any modification and/or replacement of it or of such subordinate legislation.
- 1.13 Authority to exercise any delegated power shall include authority to take all reasonable necessary actions of an incidental or consequential nature.
- 1.14 Where the Council or a committee gives authority for the doing of anything, the officer designated shall be entitled to take all necessary steps for doing such a thing.

## **2.0 GENERAL PRINCIPLES ON DELEGATION**

- 2.1 Where decisions are taken by officers under delegated powers and authority the following principles and conditions shall be taken considered and applied at all times:
  - Powers shall be exercised in accordance with the Constitution and Standing Orders of Mid Ulster Council
  - The officer exercising such powers shall give effect to any resolution of the Council or committee, upon any matter of principle or policy in relation to the functions concerned
  - Where an officer is authorised to take decisions, action to implement such decisions shall be taken in the name of (but not necessarily personally by) that officer.
  - The officer dealing with a matter shall arrange any inter-departmental or member level consultation that shall be required. If inter-departmental

agreement is not reached at senior officer level, the matter shall be referred to the Chief Executive for consideration.

- In a case of where the officer exercising the power considers that a new departure in policy is likely to be involved, or if the implications are such that the officer considers that such course is necessary, the matter shall be referred to the Chief executive for consideration
- The exercise of delegated authority shall be subject to there being adequate and appropriate budgetary provision, in the year of exercise and, insofar as is reasonably foreseeable and practicable, of future years.
- Any decision which may attract to the Council any unusual or onerous legal liability shall be taken with legal advice from the Council's legal representative and in consultation with the Strategic Director of Corporate Services and Finance.
- Any decision which has significant financial implications shall be taken in consultation with the Strategic Director of Corporate Services and Finance or, or, in their absence, the Assistant Director of Corporate Services and Finance.
- The exercise of functions under the scheme shall have regard to all relevant considerations and not take in to account any irrelevant matters.

### **3.0 DELEGATED FUNCTIONS: GENERAL**

The exercise of the following general functions is delegated to all Senior Officers:

#### **3.1 General administration**

- 3.1.1 Taking all necessary action for the effective day-to-day management, administration and supervision of the department, services and land and property assets for which the Senior Officer is responsible.
- 3.1.2 Implementing those actions, programmes and initiatives which the Senior Officer is responsible for, as set out in agreed Council plans subject to regular reporting to the relevant Committee and to the expenditure being within agreed estimates.
- 3.1.3 Engaging consultancy assistance, where required, subject to relevant Council policies and regular reporting to the relevant Committee on the use of this delegated authority.
- 3.1.4 Carrying out surveys and other research in connection with the functions of the department, subject to Council policies on procurement.
- 3.1.5 Responding to consultation documents on matters which are routine or which do not have significant policy or financial implications for the Council.
- 3.1.6 Making initial applications for grant funding from external bodies where there is not sufficient time for Council approval to be obtained provided that there is no

Commitment for Council funding and that any subsequent decision to proceed remains subject to Committee approval.

- 3.1.7 Developing and implementing specific promotions, schemes and events (including the provision of prizes) in line with any relevant Council policies.
- 3.1.8 Approving the use of marketing and promotional measures to attract and retain users and members of Council's services as considered useful.
- 3.1.9 Instructing the Council's Legal representative(s) to instigate legal proceedings in regard to the recovery of debt(s), the enforcement of contractual rights, the service of notices, the prosecution of statutory offences and the instituting and defending of claims and proceedings affecting the Senior Officer's department.

## **3.2 Finance**

- 3.2.1 Paying the cost of an employee's professional fees where it is legally necessary for the employee to perform their duties in line with the Local Government Finance (Northern Ireland) Act 2011
- 3.2.2 Approving payments to employees for damage to personal apparel or other items up to a limit of £500 where the damage has occurred in the course of the duties of that employee.
- 3.2.3 Authorising any employees to attend training and development events, technical visits and courses within their jurisdiction, subject to any relevant Council policies.
- 3.2.4 Authorising appropriate payments to employees in their department in respect of telephone, travel and subsistence allowances, standby and call out allowances, overtime, additional duties, in accordance with Council policies.
- 3.2.5 Granting of small scale hospitality, subject to the financial limits set within the relevant Council policies.

## **3.3 Emergencies and cases of urgency**

- 3.3.1 Taking such measures, including incurring expenditure, as may be required in emergency situations or cases of urgency, subject to advising the appropriate Committee/Council Chair and reporting the matter to the appropriate Committee as soon as possible.

## **3.4 Management of Land & Property Assets**

The exercise of the following delegated powers is in relation to the management of the land and property assets, for which the Senior Officer is responsible. The use of these delegated powers is subject to paragraph 1.3 above that there is no disposal, holding or acquisition of land involved.

- 3.4.1 Permitting the use of such assets by Council departments and services and outside bodies in accordance with any relevant Council policies.

- 3.4.2 Varying the opening times of, or restricting access to, or closing such assets in special circumstances (for example to permit maintenance or other operational reasons) in consultation with the Chairman of the relevant Committee.
- 3.4.3 Approving the holding of non-controversial events, conferences and promotions in such assets and applying any necessary hire and/or admission charges or discounted pricing in line with Council policies.

#### **3.4.4**

### **3.5 Human Resources**

The exercise of the following delegated powers is subject to consultation with the Strategic Director of Organisational Development, Strategy and Performance to ensure that decisions are taken in accordance with any relevant Council policies and that, where necessary, the appropriate Committee is kept fully advised by way of regular reporting. Staff management changes which result in an increase in the approved staffing establishment and staffing budget for a department and/ or which effect any changes to posts at third tier and above , will be subject to approval by the Council.

- 3.5.1 Undertaking service reviews, including the deletion of permanent posts and the creation of new permanent posts, provided that there is no increase in the Department's approved staffing establishment and staffing budget for permanent posts, subject to approval of the Chief Executive.
- 3.5.2 Creating new temporary posts provided that there is no increase in the Department's approved staffing establishment and staffing budget, in accordance with Organisational Development, Strategy and Performance Department's approach.
- 3.5.3 Approving the use of agency resources in accordance with all relevant Council policies, following approval from Strategic Director for Organisational Development, Strategy and Performance.
- 3.5.4 Appointing successful applicants to posts in line with the employment policies and practices adopted by the Council.
- 3.5.5 Agreeing to a one month overlap period for the appointment of employees, provided that this can be accommodated within budget.
- 3.5.6 Allowing or disallowing all requests for leave, of any kind, in accordance with the Schemes of Conditions of Service adopted by the Council.
- 3.5.7 Approving paid or unpaid leave of absence subject to all relevant Council policies.
- 3.5.8 Taking action, including terminating or varying contracts of employment in respect of employees in the relevant department in accordance with Council

policies following consultation with the Director of Organisational Development, Strategy and Performance.

### **3.6 Procurement**

The exercise of the following delegated powers is subject to consultation with the Strategic Director of Corporate Services and Finance to ensure decisions are taken in accordance with relevant Council policies, including Standing Orders and the Financial Regulations, and that where necessary, the appropriate Committee is fully advised by way of timely and effective regular reporting.

Under the Local Government (Northern Ireland) Act 1972 any contract that exceeds the statutory amount of £30,000 exclusive of VAT must be made under the Corporate Seal. The Council's Standing Orders require a resolution of the council in order for the Corporate Seal to be affixed.

- 3.6.1 Procuring goods, services or works with an estimated value under £30,000 (exclusive of VAT) where the procurement:
  - (1) is in relation to matters of a routine or recurring nature; or
  - (2) is in relation to the operational requirements of the Department; or
  - (3) is contained within an agreed Council plan.
- 3.6.2 Authorising the entering in to a contract for the procurement of goods, services or works with an estimated value at or above £30,000 (exclusive of VAT), following a tender exercise, where the Council has approved the award of the contract.
- 3.6.3 Approving the changing of sureties by contractors provided the Council's interests remain fully protected.
- 3.6.4 Determining a contract awarded by the Council where the contractor is in breach of contract and unable or unwilling to proceed therewith, subject to prior consultation with the Chairman of the relevant Committee, the Council's Legal representative(s) and Strategic Director of Corporate Services and Finance.
- 3.6.5 Taking action to ensure contract compliance and negotiating claims and contract variations.
- 3.6.6 Signing maintenance agreements subsequent to capital acquisitions agreed by the Council and provided the financial implications have been advised to Council, subject to consultation with the Council's Legal representative(s) (and in consultation with the Strategic Director of Corporate Services and Finance).
- 3.6.7 Making arrangements for the supply of goods and services pursuant to Section 105 of the Local Government Act (Northern Ireland) 1972.

## **4.0 DELEGATED FUNCTIONS: BY OFFICER**

### **4.1 Chief Executive**

The Chief Executive is the head of paid service who is accountable to Mid Ulster District Council for the delivery of its statutory and non-statutory services. The post is specifically responsible for marketing and communications, rural development, economic development, physical regeneration, tourism and the transferred functions from the former Department for Enterprise, Trade and Investment.

Anything delegated to a Senior Officer is also delegated to the Chief Executive who has authority to act on their behalf and to exercise any relevant function accordingly.

The Chief Executive is also delegated authority to:

- Sign legal documents on behalf of the council
- Making minor amendments to the Scheme of Delegation to reflect organisational, functional or legislative changes, to include any new legislation regarding existing functions.
- Sign documents to which a seal is affixed in line with section 120(2) of the Local Government (NI) Act 1972
- Affix the corporate seal, as required on resolution of the council
- To sign annual accounts and annual governance statements as Chief Financial Officer (CFO)
- The power to compromise or settle all claims made, or legal proceedings involving the Council as appears necessary or desirable in the best interests of the Council
- Approve, after consultation with the Chairman of the relevant Committee and Council, requests received in respect of deemed controversial events and activities in/on the Council's land and property assets where there is not sufficient time for Council approval to be obtained, subject to a report being taken to Committee as soon as possible thereafter

The Deputy Chief Executive is delegated the functions above at 4.1, with the exception of the signing of the annual accounts and annual governance statements, during periods of leave of the Chief Executive.

### **4.2 Strategic Director of Communities and Place**

The Strategic Director of Communities and Place is responsible for and accountable to the Chief Executive for the delivery of community services; Policing and Community Safety Partnership; cultural venues; arts development; languages; events; the provision of regulation and advice in relation to those functions within the Environmental Health remit, namely, health and safety, public safety and food control; pollution control; public health, housing and HMOs; tobacco control; consumer protection relating to non-food products; dog control and animal welfare; licensing matters extending to street trading; road closures for special events; betting, gaming lotteries and amusements; pavement cafés; societies' lotteries; closing orders, Sunday trading; licensing of caravans; Health and Wellbeing programmes; leisure; sports development; water recreation sites; open spaces; play parks and countryside access functions.

The exercise of the functions listed below in relation to the legislation set out in Appendix B1 and to the legislation made thereunder, in line with relevant Council policies, is delegated to the Strategic Director of Communities and Place:-

- enforcing all regulations, orders and bye-laws made under the said legislation;
- Issuing, signing and serving certificates, notices and orders;
- granting, (but not withdrawing, suspending and refusing authorisations, approvals and consents;
- exercising any powers in relation to the issue (but not refusal) of permits and licences;
- effecting (but not cancelling or refusing to effect) registrations and maintaining statutory registers;
- authorising individuals, acting on behalf of the Council, for the purpose of exercising any statutory power;
- executing works in default of compliance with any notice and in an emergency where empowered by statute, and recovering costs;
- Exercising all powers in relation to the issue (but not refusal) of Houses in Multiple Occupation;
- exercising of powers under Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 in relation to the removal or obliteration of graffiti, placards or posters
- Authorising under Article 22 (2) (C) (i) of the Health and Safety at Work (Northern Ireland) Order 1978 on behalf of Council, suitable persons to accompany inspectors who have been appointed by the Council under Article 21 of the said Order

- Protecting public rights of way and generally enforcing the Access to the Countryside (Northern Ireland) Order 1983
- Detaining a dog or causing a dog to be disposed of, sold or destroyed in accordance with Articles 23 or 48 of The Dogs (Northern Ireland) Order.

### 4.3 Strategic Director of Environment

The Strategic Director of Environment is responsible for and accountable to the Chief Executive for waste management; cleansing; recycling; vehicle maintenance and fleet operator compliance; property/asset management; public toilets; cemeteries; grounds maintenance; off street car parking functions; Building Regulations; road and street naming and numbering; licensing (i.e. entertainment, marriage/civil partnerships, cinema, and petroleum) , property certificates; capital planning and capital project delivery; sustainability; biodiversity; bus shelters; signage; emergency planning and corporate health and safety functions.

The exercise of the following functions, in line with relevant Council policies, is delegated to the Strategic Director of Environment:

- obtain a valuation of any land or land and property asset from Land and Property Services or any other valuation agency appointed by Council to act in their place.
- sign and issue notices on behalf of Council  
  
Issue 'Seven Day Notices' in respect of abandoned vehicles under the Pollution Control and Local Government (NI) Order 1978, as amended
- to enter in to wayleaves, easements, works licences and other licences or agreements, where the Council is the grantee/licencee<sup>1</sup> etc., in consultation with the Council's legal representative
  - Make Orders for the charges to be paid in connection with the use of an off street parking place,
  - Make Orders for the use of any off-street parking place and conditions on which it may be used,
  - Make Orders restricting the use of a specified off-street parking place
  - Make Orders for the suspension of the use of an off-street parking place or any part of it for specified occasions or circumstances and in consultation with the Council's legal representative, entering into arrangements for the use of the said parking place.
  - The functions listed below in relation to the legislation set out in Appendix B2 and legislation made thereunder for which the Strategic Director of Environment has responsibility:
    - (a) enforcing all regulations, orders and bye-laws made under the said legislation
    - (b) issuing and serving certificates and notices

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<sup>1</sup> For the avoidance of doubt, this does not include entering in to agreements which would be considered a "disposal" under Section 45 of the Interpretation Act (NI) 1954 - <https://www.legislation.gov.uk/apni/1954/33/section/45> . This function cannot be delegated under Section 7 Local Government (NI) Act 2014 - <https://www.legislation.gov.uk/nia/2014/8/section/7>

- (c) granting, withdrawing, suspending and refusing authorisations, approvals and consents and rejecting plans
- (d) exercising all powers in relation to the issue (but not refusal) of licences
- (e) refusing licences where all of the necessary supporting docs not provided within 8 weeks of application, or the application is otherwise incomplete, inaccurate or falsified;
- (f) effecting (but not cancelling or refusing to effect) registrations and maintaining statutory registers
- (g) authorising persons and officers pursuant to relevant legislation for the purposes of exercising any statutory power
- (h) dispensing with or relaxing, or refusing to dispense with or relax Building Regulations and inviting representations thereon, and extending prescribed periods
- (i) exercising powers in relation to the energy performance of buildings
- (j) lodging objections to notices of applications received (licensing, registration of clubs, betting gaming etc.)

#### **4.4 Strategic Director of Corporate Services and Finance**

The Strategic Director of Corporate Services and Finance is responsible for and accountable to the Chief Executive for the administration of finance to include debtors, creditors and payroll, procurement and insurance, information computer technology, legal matters, governance, information governance and transformation functions within Council.

*No specific matters are delegated as of the date of this scheme*

#### **4.5 Strategic Director of Organisational Development, Strategy and Performance**

The Strategic Director of Organisational Development, Strategy and Performance is responsible for and accountable to the Chief Executive for the delivery of the human resource and registration services functions within Council; responsibility for the 3 Civic Council Offices; democratic and committee services; business support; customer services; corporate strategy; performance and community planning functions of council.

*No specific matters are delegated as of the date of this scheme*

## **4.6 Planning**

The Head of Strategic Planning is responsible for and accountable to the Chief Executive for the delivery of Development Planning, Major Applications within the Development Management function and Enforcement functions of council.

In addition to those areas identified as general delegated functions, at 3.0 above, the Head of Strategic Planning is also delegated authority to:

- Determine those matters delegated to the post holder within Appendix C of this Scheme

The Head of Local Planning is responsible for and accountable to the Chief Executive for the delivery of all other applications that are not considered “Major” within the Development Management functions of the Council.

In addition to those areas identified as general delegated functions, at 3.0 above, the Head of Local Planning is also delegated authority to:

- Determine those matters delegated to the post holder within Appendix C of this Scheme

## **APPENDIX A: SENIOR OFFICER**

In this Scheme the expression Senior Officer means:

- Chief Executive
- Strategic Director of Communities and Place
- Strategic Director of Environment
- Strategic Director of Organisational Development, Strategy and Performance
- Strategic Director of Corporate Services and Finance
- Head of Strategic Planning\*
- Head of Local Planning\*

\* Note the job titles of these Senior Officers are due to change as of 1 April 2024.

## **APPENDIX B1: STATUTORY RULES**

### **Environmental Health Functions (Strategic Director of Communities and Place)**

***Note that these are the principal pieces of legislation under which the Council derives its functions. This list is not exhaustive. Any delegation to an officer to take action under a particular statutory provision, or relevant local authority bye-law, shall be deemed to authorise action under any statutory re-enactment or amendment of that provision, and any statutory regulations, order, or direction made under that provision both before and after the date of this Scheme. References to statutory requirements in this scheme include relevant European legislation and directives as applicable.***

Legislation	<p>Animal By Products Regulations (NI) 2003</p> <p>Anti-Social Behaviour (NI) Order 2004</p> <p>Betting, Gaming, Lotteries &amp; Amusements (NI) Order 1985</p> <p>Caravans Act (Northern Ireland) 1963</p> <p>Caravans Act (Northern Ireland) 2011</p> <p>Children and Young Persons (Sale of Tobacco etc.) Regulations (Northern Ireland) 2008</p> <p>Children and Young Persons (Protection from Tobacco) (Northern Ireland) Order 1991</p> <p>The Cigarette Lighter Refill (Safety) Regulations 1999</p> <p>Clean Air (Northern Ireland) Order 1981</p> <p>Clean Neighbourhoods and Environment Act (NI) 2011</p> <p>Construction Products Regulations 1991</p> <p>Consumer Protection Act 1987</p> <p>Consumer Rights Act 2015</p> <p>Criminal Justice and Police Act 2001</p> <p>Dangerous Dogs 1991</p> <p>Dogs (NI) Order 1983</p> <p>Energy Performance of Buildings (Certificates and Inspections)(Amendment) Regulations (NI) 2014</p> <p>Environment (NI) Order 2002</p> <p>European Communities Act 1972</p> <p>Fire &amp; Rescue Services NI Order 2006</p> <p>Food and Environment Protection Act 1985</p> <p>Food Hygiene Regulations (NI) 2006</p> <p>Food Labelling Regulations (NI) 1996</p> <p>Food (Northern Ireland) Order 1989</p> <p>Food safety (Temperature Control) Regulations (NI) 1995</p> <p>Food Safety (Northern Ireland) Order 1991</p> <p>General Product Safety Regulations 2005</p> <p>Good Rule and Government Bylaws</p> <p>Hairdressers Act (NI) 1939</p> <p>Health and Safety at Work (Northern Ireland) Order 1978</p> <p>Health and Personal Social Services (NI) Order 1978</p>
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High Hedges Act (NI) 2011  
Housing (Amendment) Act (Northern Ireland) 2011  
Houses in Multiple Occupation Act (Northern Ireland) 2016  
Industrial Pollution Control (Northern Ireland) Order 1997  
Landlord Registration Scheme Regulations (Northern Ireland) 2012  
Licensing (NI) Order 1996  
Litter (Northern Ireland) Order 1994  
Local Government Act (Northern Ireland) 1972 - Byelaws  
Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985  
Licensing of Pavement Cafés Act (Northern Ireland) 2014  
Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992  
Noise Act 1996  
Petroleum (Consolidation) Act (NI) 1929  
Pleasure Grounds Bylaws  
Poisons (Northern Ireland) Order 1976  
Pollution Control and Local Government (Northern Ireland) Order 1978  
Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013  
Private Tenancies (NI) Order 2006  
Private Tenancies Act (Northern Ireland) 2022  
Public Health Acts 1878 to 1971  
Public Health and Local Government (Miscellaneous Provisions) Act 1949  
Rats and Mice Destruction Act 1919  
REACH Enforcement Regulations 2008  
Rent (Northern Ireland) Order 1978  
Road Traffic Regulation (Northern Ireland) Order 1997  
Roads (Miscellaneous Provisions) Act (Northern Ireland) 2010  
Shops (Sunday Trading etc) (Northern Ireland) Order 1997  
Standardised Packaging of Tobacco Products Regulations 2015  
Street Trading (Regulation) Act Northern Ireland 1929  
Street Trading Act (Northern Ireland) 2001  
Smoking (NI) Order 2006 and associated Regulations  
Sunbeds Act (Northern Ireland) 2011

The Sunbeds (Fixed Penalty) (General) Regulations (NI) 2012  
The Sunbed (Fixed Penalty) (Amount) Regulations (NI) 2012  
The Sunbed (Information) Regulations (NI) 2012  
Safety of Sports Grounds (Northern Ireland) Order 2006  
Tobacco Advertising and Promotion Act 2002  
Tobacco Retailers Act (Northern Ireland) 2014  
Tobacco and Related Products Regulations 2016  
Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012  
Waste and Contaminated Land (NI) Order 1997  
Welfare of Animals Act (NI) 2011  
Welfare Services Act (Northern Ireland) 1971

### **EC Regulations**

*(Please note that this is not an exhaustive list of all Commission Implementing Regulations and decisions amending (EU) regulations or Directives below.)*

Regulation (EC) No 178/2002 Laying Down the General Principles and requirements of Food Law, Establishing the European food Safety Authority and Laying Down Procedures in matters of Food Safety

Regulation (EC) No 852/2004 The Hygiene of Foodstuffs

Regulation (EC) No 853/2004 Laying Down Specific Hygiene Rules for Food of Animal Origin

Regulation (EU) No 1169/2011 The Provision of food information to consumers

Regulation (EU) 2017/625 (Official Controls Regulations)

### **Food Control Legislation**

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The Food Safety (1991 Order) (Commencement) Order (Northern Ireland) 1991

The Food Safety (Northern Ireland) Order 1991 (Consequential Modifications) Order (Northern Ireland) 1991  
Food Standards Act 1999

Food Standards Act 1999 (Transitional and Consequential Provisions and Savings) Regulations (Northern Ireland) 2000

The Food Safety (Northern Ireland) Order 1991 (Amendment) Regulations (Northern Ireland) 2004

### **Consumer Protection Legislation**

The Construction Products Regulations 2013

The Construction Products (Amendment Etc.) (Eu Exit) Regulations 2019

The Construction Products (Amendment Etc.) (Eu Exit) Regulations 2020

The Consumer Protection (Enforcement) (Amendment Etc.) (Eu Exit) Regulations 2019

The Consumer Protection (Enforcement) (Amendment Etc.) (Eu Exit) Regulations 2020

The Consumer Rights (Enforcement and Amendments) Order 2016

Consumer Rights Act 2015 (Enforcement) (Amendment) Order 2019

The Coordination of Regulatory Enforcement (Enforcement Action) Order 2009

The Coordination of Regulatory Enforcement (Procedures For Reference To LBRO) Order 2009

The Coordination of Regulatory Enforcement (Regulatory Functions In Scotland and NI) Order 2009

The Coordination of Regulatory Enforcement (Enforcement Action) (Amendment) Order 2013

The Coordination of Regulatory Enforcement (Enforcement Action) (Amendment) Order 2014

The Coordination of Regulatory Enforcement (Enforcement Action) (Amendment) (No 2) Order 2014

The Enterprise Act 2016

The Enterprise and Regulatory Reform Act 2013

The European Communities Act 1972

European Union (Future Relationship) Act 2020

European Union (Withdrawal) Act 2018

European Union (Withdrawal Agreement) Act 2020

The Health Act 2009

Directive 2014/40/EU on the Manufacture, Presentation and Sale of Tobacco and Related Products

Regulation (EU) 2019/ 1020 On Market Surveillance and Compliance of Products (MSC)

## APPENDIX B2: STATUTORY RULES

### Building Control and Licensing Functions (Strategic Director of Environment)

***Note that these are the principal pieces of legislation under which the Council derives its functions. This list is not exhaustive. Any delegation to an officer to take action under a particular statutory provision, or relevant local authority bye-law, shall be deemed to authorise action under any statutory re-enactment or amendment of that provision, and any statutory regulations, order, or direction made under that provision both before and after the date of this Scheme. References to statutory requirements in this scheme include relevant European legislation and directives as applicable.***

- Building Regulations (Northern Ireland) Order 1979 (as amended)
- Building Regulations (Northern Ireland) 2012 (as amended)
- Building (Amendment) Regulations (Northern Ireland) 2022
- Building (Prescribed Fees) Regulations (NI) 1997 (as amended)
- Building (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 2013
- Building (Prescribed Fees) (Amendment) Regulations (Northern Ireland) 2022
- Cinemas (NI) 1994
- Civil Partnership Act 2004
- Clean Neighbourhoods and Environment Act (NI) 2011
- Energy Performance of Buildings (Certificates and Inspections)(Amendment) Regulations (NI) 2009 & 2014
- Fire & Rescue Services NI Order 2006
- Health and Safety at Work (Northern Ireland) Order 1978
- Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2021
- Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985
- Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995
- Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992
- Local Government Act (NI) 2014

- Marriage (Northern Ireland) Order 2003
- Petroleum (Consolidation) Act (NI) 1929
- Petroleum (Transfer of Licences) Act (Northern Ireland) 1937
- Public Health Acts 1878 to 1971
- Towns Improvement Clauses Act 1947
- Towns Improvement (Ireland) Act 1854

- **APPENDIX C            DELEGATED AUTHORITY ON PLANNING MATTERS**

**Scheme of Delegation of Planning Applications**

The Scheme of Delegation for planning applications was agreed by Mid Ulster District Council at its meeting of [Thursday 28<sup>th</sup> March 2024] following approval by the Department for Infrastructure on INSERT March 2024. The approval is in accordance with Section 31 of The Planning Act (NI) 2011.

The revised Scheme of Delegation takes effect from [01<sup>st</sup> April 2024].

**Part A – Mandatory applications for determination by the Planning Committee:**

Statutory requirements require that certain types of application must be determined by the planning committee and these cannot therefore be delegated to officers:

- Applications which fall within the Major category of development;
- An application for planning permission where the application is made by the council or an elected member of the council, and
- The application relates to land in which the council has an interest/estate.

**Part B – Delegated Applications:**

The appointed person within the Council is the Head of Local Planning

To determine all local development applications with the exception of:

- Applications which are significant departures from the Development Plan or planning policy and which are recommended for approval.
- Applications submitted by the Chief Executive, Directors, planning staff, or their close relatives (parents, partners, siblings, and children).
- Applications submitted by an elected member or their close relative (parents, partners, siblings and children).
- Applications attracting valid planning objection including those from a statutory consultee, where the officer's recommendation is to approve.
- Any application referred to the Planning Committee by a Council Member, subject to a valid planning reason being provided by the Member for the deferral.
- All refusals of planning permission.
- Applications where the Head of Local Planning considers that the proposal merits consideration by the Committee, for example an application subject to an Enforcement Notice where the recommendation is to refuse permission.
- Applications where a legal agreement is required.

**Part C – Publicity:**

On adoption of this scheme of delegation the council made a copy

- available on the councils website at [www.midulstercouncil.org](http://www.midulstercouncil.org)

- available at Mid Ulster Council Offices  
Magherafelt Office  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

An advert was placed in the local press.

## **Scheme of Delegation of planning consents, certificates, tree preservation orders, enforcement of planning control and other determinations**

As well as determining planning applications, the Council will also have to administer the enforcement of planning and the processing of other planning consents, orders etc. The Scheme of Delegation for Senior Officers in relation to planning consents, certificates, orders, enforcement and other determinations was agreed by Mid Ulster District Council at its meeting of [*Thursday 28<sup>th</sup> March 2024*]. The Scheme of Delegation takes effect from [1<sup>st</sup> April 2024] and is in accordance with Section 7 (4) (b) of the Local Government (Northern Ireland) Act 2014.

### **The following matters are delegated to the Head of Strategic Planning:**

- The investigation of complaints of breach of planning control including the decision to not take enforcement action and/or to close an enforcement case or investigation and/or to withdraw or vary an enforcement notice;
- In exceptional circumstances, such as; immediate risk to human health; environmental harm etc., issue an Enforcement Notice or Stop Notice, subject to the Planning Committee being informed at the next available opportunity.
- The service of a Breach of Condition Notice, Submission Notice or planning contravention notices
- To instruct the Council's Legal representative to make an application to the Courts for Injunctions, subject to the Chair and Vice Chair of the Planning Committee being informed.
- Application to the Magistrates Court for a warrant to enter land and/or buildings in accordance with the powers provided in the Planning Act (Northern Ireland) 2011.
- Determination of the type of planning appeal and amendments to Council's case during the course of the appeal, subject to consultation with the Chair of the Planning Committee as deemed appropriate by the Head of Development Management.

(b) Matters relating to Major and Regionally Significant Planning applications and proposals (defined by the Planning (NI) Act 2011 and supporting legislation)

- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 or any successor legislation, to:-
  - Issue screening opinions determining whether developments fall within Schedule (1) and (2);
  - Issue scoping opinions as to the information to be provided in any statement, and undertake appropriate consultations and notifications;
  - Determine whether an application should be accompanied by an Environmental Statement.
- Negotiating Section 76 Planning Agreements including developer contributions on planning applications prior to a final decision being taken by the Planning Committee.
- The preparation of evidence on behalf of Council and defending planning decisions at Planning Appeals, Independent Examinations and other Hearings.
- Discharge of Planning Conditions
- In respect of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland 2015 or any successor, to consider and approve a waste management plan
- Instruct the Council's Legal representative in relation to any legal action on any major or regionally significant planning matters, provided the Committee is informed.

(c) Local Development Plan

- Engage freely with the Planning Appeals Commission at the Independent Examination pre-hearing stage.
- To provide additional information or to request same, where the Commissioner deems this necessary.
- Agree minor, typographical or factual changes or modifications to the Local Development Plan documents.
- Agree changes to the justification and amplification text, for example to provide greater clarity on a particular policy.
- Agree changes to a particular policy or proposal in the draft Local Development Plan document suggested by the Commissioner, where that change would not fundamentally alter the thrust of that policy / proposal, or the change is necessary to make the policy / proposal sound, with no substantive implications for other aspects of the Plan or overall objectives of the policy.
- Instruct the Council's Legal representative in relation to any legal action on planning matters, provided the Committee is informed.

(d) Tree Preservation Orders

Determination of any application for carrying out works to trees subject to a tree preservation order.

**The following matters are delegated to the Head of Local Planning**

(e) Other Consents and Certificates

- Determination of any application for a Certificate of Lawful Development.
- Determination of any application for Advertisement Consent or variations of same.
- Determination of any Hazardous Substance Consent.
- Applications for Non Material Changes.
- Determination of applications for Certificates of Alternative Development Value.
- Determination of applications for Urgent Crown Development and Crown Listed Building Consent.
- Determination of a Correction Notice.
- Discharge of Planning Conditions.
- Registering Notices and Charges in the Statutory Charges Register.
- To make determinations under Section 46 (Power to Decline).
- To make determinations under Section 48 (Power to decline).

(f) Listed Building and Conservation Area Consents

- Determination of any application for Listed Building Consent.
- Determination of any application for Conservation Area Consent.

The applications for listed building consent, conservation area consent and advertisement consent are delegated with the exception of the following which require determination by the Planning Committee:

- The application is made by the council or an elected member of the council.
- The application relates to land in which the council has an interest.
- The application is submitted by the Chief Executive, Director, planning staff, or close relatives (parents, partners, siblings, and children)
- The application has attracted valid planning objection including those from a statutory consultee, where the officer's recommendation is to approve.
- The application is recommended for refusal.

- Where the Head of Local Planning considers that the proposal merits consideration by the Committee.
- Responding to minor consultations on planning matters on behalf of the Council, which do not fall within the remit of the Planning Committee.

(g) Matters relating to Local Planning applications (defined by the Planning (NI) Act 2011 and supporting legislation as other planning applications not defined as regionally significant or major)

- In respect of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2012 or any successor legislation, to:-
  - Issue screening opinions determining whether developments fall within Schedule (1) and (2);
  - Issue scoping opinions as to the information to be provided in any statement, and undertake appropriate consultations and notifications;
  - Determine whether an application should be accompanied by an Environmental Statement.
- Negotiating Section 76 Planning Agreements including developer contributions on planning applications prior to a final decision being taken by the Planning Committee.
- The preparation of evidence on behalf of Council and defending planning decisions at Planning Appeals, Independent Examinations and other Hearings.
- In respect of the Planning (Management of Waste from Extractive Industries) Regulations (Northern Ireland 2015 or any successor, to consider and approve a waste management plan
- Instruct the Council's Legal representative in relation to any legal action on local planning matters, provided the Committee is informed.

The Head of Local Planning is delegated the authority in relation to the preparation of evidence on behalf of Council and defending planning decisions at Planning Appeals, Independent Examinations and other Hearings in respect of local planning matters.

The Planning Committee reserves the right to request a report for information purposes on any of these delegated matters.