

**Report to:** Governance Committee

**Date of meeting:** 18 July 2023

**By:** Director of Communities, Economy and Transport

**Title:** Amendment to Constitution – Scheme of Delegation to Officers

**Purpose:** To seek approval to add to and amend the Scheme of Delegation in relation to functions delegated to the Director of Communities, Economy and Transport.

---

**RECOMMENDATION:** The Governance Committee is recommended to recommend the County Council to agree to amend the Scheme of Delegation to Officers as set out in paragraphs 2.2 and 2.7 of this report.

---

## 1 Background Information

1.1 The County Council’s Scheme of Delegation provides the Director of Communities, Economy and Transport (CET) with authority to perform a number of functions and make certain decisions across the range of services that make up the directorate. National policy and legislative changes can result in new and amended functions that need to be performed by the CET directorate. To ensure that decisions are taken at an appropriate level, and are capable of being taken within prescribed timeframes, certain changes and additions are proposed to the Scheme of Delegation to Officers. Primarily this is to account for new certain new duties on the Council as a result of the Environment Act 2021.

## 2 Proposed amendments to the Scheme of Delegation

### Local Nature Recovery Strategies

2.1 The Environment Act 2021 set a requirement for Local Nature Recovery Strategies (LNRS) to be prepared and implemented across the country. In broad terms, the LNRS will set a spatial strategy for how and where measures to achieve nature recovery will be achieved. The LNRS will inter-link with the soon to be mandatory requirement for new developments to deliver a minimum 10% increase in Biodiversity Net Gain (BNG). In April 2023, the Department for Environment, Food and Rural Affairs (Defra) published The Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023, which sets out the legislative procedure for preparing a LNRS. Defra has also announced that East Sussex County Council has been defined as a “Responsible Authority” for preparing a LNRS for the administrative areas of the County Council and Brighton & Hove City Council.

2.2 Defra expects that each Responsible Authority will have prepared a LNRS by March 2025. Production of the Strategy will involve a number of key stages, including a public consultation on a draft LNRS. Due to the relatively short timeframe to prepare a LNRS, it is considered essential that certain actions, tasks and decisions are delegated to the Director of Communities, Economy and Transport. Examples of this will include; publishing information relating to progress of the LNRS on a website; engaging with Supporting Authorities (District and Borough Council’s, South Downs National Park Authority, Brighton & Hove City Council and Natural England) on the draft LNRS, and; publishing a draft LNRS for public consultation. It is therefore recommended that the following additional paragraph is included in Section xx of the Scheme of Delegation;

*“To publish a consultation draft of a Local Nature Recovery Strategy and undertake all tasks under Regulations 4 to 12 inclusive, of The Environment (Local Nature Recovery Strategies) (Procedure) Regulations 2023, in preparing and publishing a draft LNRS. To make representations on Local Nature Recovery Strategies prepared by neighbouring authorities.”*

2.3 Approval of the final LNRS, as referred to in Regulations 13 to 19, will be an Executive decision and taken as a Lead Member/Cabinet decision.

## Development Consent Orders

2.4 For Nationally Significant Infrastructure Projects (NSIPs), through the provisions of the Planning Act 2008 the planning process is dealt through Development Consent Orders (DCOs), rather than planning applications. DCOs are considered by the Planning Inspectorate, who prepare a report and make a recommendation to the relevant Secretary of State. The Secretary of State makes a decision on whether to grant or refuse the DCO. To date, no DCOs have been promoted within East Sussex, although there have been several DCOs promoted and determined within neighbouring authority areas. Both the proposed extension to the Rampion windfarm and the proposal from Gatwick Airport Limited for their Northern Runway Project are being dealt with through the DCO process.

2.5 The County Council is a statutory consultee for DCOs that relate to proposals within the county, as well as neighbouring authority areas. Opportunities to provide input and make representations on the proposals will be at the Pre-application, Acceptance, Pre-examination and Examination stages. Consultation periods at the Pre-application and Pre-examination stages will often be 6 weeks. At the Acceptance stage, consultees have 14 days to make a representation to the Planning Inspectorate as to whether they consider the consultation and engagement undertaken by the proponent to be adequate, or not.

2.6 In light of the above, it is clearly apparent that consultees, such as the County Council, will need to consider and respond to consultations in a timely manner. The Scheme of Delegation currently allows for the Director of Communities, Economy and Transport to respond to DCO consultations under paragraph 41, which states *“To respond on behalf of the Council as County Planning Authority, Highway Authority and/or Lead Local Flood Authority to consultations from government departments and other statutory and non-statutory organisations.”*

2.7 Given that additions are already being proposed, it is considered that this is an opportunity for explicit reference to be made to Development Consent Orders in the Scheme of Delegation. It is therefore proposed that the following additional paragraph is included after the existing paragraph 41;

*“To make representations on Development Consent Orders at the Pre-application, Acceptance and Pre-Examination stages, and to further these representations and represent the County Council at the Examination stage.”*

2.8 In some cases and in recognition of the strategic importance and interest in the proposals, outside of the formal consultation periods a report may be taken to Lead Member/Full Council in order to establish a general over-arching view on the proposals.

### **3. Conclusion and Reason for Recommendation**

3.1 It is considered that the additions proposed to the the Scheme of Delegation, are necessary in order for the County Council to effectively respond to legislative and policy changes and do not undermine the democratic accountability of the Council. The amendments will aid in the ability for decisions to be taken in an efficient and timely manner, which is considered particularly important where deadlines need to be met for certain actions to be undertaken.

RUPERT CLUBB  
Director of Communities, Economy and Transport

Contact Officer: Edward Sheath  
Tel. No. 01273 481632  
Email: [edward.sheath@eastsussex.gov.uk](mailto:edward.sheath@eastsussex.gov.uk)

## LOCAL MEMBERS

ALL

## BACKGROUND DOCUMENTS

None

