

Agenda for a meeting of the Regulatory and Appeals Committee to be held on Thursday, 30 November 2023 at 10.00 am in the Council Chamber - City Hall, Bradford

Members of the Committee – Councillors

| LABOUR | CONSERVATIVE | GREEN |
|-------------------------------|-------------------|---------|
| Shafiq Alipoor Mullaney | Brown Sullivan | Edwards |

Alternates:

| LABOUR | CONSERVATIVE | GREEN |
|--|-----------------------|-------|
| Engel I Hussain S Hussain Lal | Pollard Glentworth | Love |

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
- **There will be no legal briefing prior to this meeting.**

From:

To:

Asif Ibrahim
 Director of Legal and Governance
 Agenda Contact: Yusuf Patel
 Phone: 07970 411923/07970 411623
 E-Mail: yusuf.patel@bradford.gov.uk/jane.lythgow@bradford.gov.uk

A. PROCEDURAL ITEMS

1. ALTERNATE MEMBERS (Standing Order 34)

The Director of Legal and Governance will report the names of alternate Members who are attending the meeting in place of appointed Members.

2. DISCLOSURES OF INTEREST

(Members Code of Conduct – Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) *Members must consider their interests, and act according to the following:*

| Type of Interest | You must: |
|---|--|
| <i>Disclosable Pecuniary Interests</i> | <i>Disclose the interest; not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.</i> |
| <i>Other Registrable Interests (Directly Related)</i> OR <i>Non-Registrable Interests (Directly Related)</i> | <i>Disclose the interest; speak on the item <u>only</u> if the public are also allowed to speak but otherwise not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.</i> |
| <i>Other Registrable Interests (Affects)</i> OR <i>Non-Registrable Interests (Affects)</i> | <i>Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being (a) to a greater extent than it affects the financial interests of a majority of inhabitants of the affected ward, and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider</i> |

*public interest;
in which case speak on the item only if
the public are also allowed to speak
but otherwise not do not participate in
the discussion or vote; and leave the
meeting unless you have a
dispensation.*

- (2) *Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (3) *Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (4) *Officers must disclose interests in accordance with Council Standing Order 44.*

3. MINUTES

Recommended –

That the minutes of the meeting held on 26 October 2023 be signed as a correct record.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

4. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

B. BUSINESS ITEMS

5. MEMBERSHIP OF SUB-COMMITTEES

The Committee will be asked to consider recommendations, if any, to appoint Members to Sub-Committees of the Committee.

(Yusuf Patel – 07970 411923 / Jane Lythgow 07970 411623)

6. DELEGATION SCHEME FOR TRANSPORTATION AND HIGHWAYS DECISIONS 2023 1 - 52

The Strategic Director of Place will submit a report (**Document “E”**) which seeks the committee’s approval to replacing the Council’s current Transportation and Highways Scheme of Delegation (2017) with an up-to-date scheme for regulation of officer decision-making.

Recommended –

- (1) That the Regulatory and Appeals Committee approves the adoption of the replacement Scheme of Delegation for Highways and Transportation matters as set out in Appendix B to Document “E” in substitution for the current Scheme of Delegation for Highways and Transportation matters as set out in Appendix A to Document “E” in so far as the powers listed in the revised Scheme of Delegation are non- Executive functions.**
- (2) That the revised Scheme of Delegation as set out in Appendix B to Document “E” will become operative only if, and when, approved by both Executive and Regulatory and Appeals Committee and the provisions of the previous Scheme of Delegation as set out in Appendix A to Document “E” will then be revoked.**
- (3) That the revised Scheme of Delegation shall remain in force until such time as it may be substituted, modified, varied, or repealed by decisions of the Executive or Regulatory and Appeals Committee or such person or body inheriting the powers of the Executive or Regulatory and Appeals Committee.**

(Richard Gelder - 01274 437603)



Report of the Strategic Director of Place to the Regulatory and Appeals Committee meeting to be held on 30 November 2023

E

Subject:

Delegation scheme for Transportation and Highways Decisions 2023

Summary Statement:

This report seeks the committee's approval to replacing the Council's current Transportation and Highways Scheme of Delegation (2017) with an up-to-date scheme for regulation of officer decision-making.

The proposed update of the Scheme of Delegation contains powers and functions which require delegation approval by both the Executive and Regulatory and Appeals committee in order to be fully adopted. Executive have already approved the revised scheme at its meeting on 7 November 2023 and to become fully operational approval of the Regulatory & Appeals Committee is similarly required for those powers which are not Executive functions.

EQUALITY & DIVERSITY

There are no equality and diversity implications arising from the contents of this report. Any decisions taken by officers under the delegated powers conferred by this scheme will take due account of the requirements of equality and diversity issues and obligations of the Council.

David Shepherd
Strategic Director of Place

Portfolio:

Planning, Regeneration & Transport

Report Contact: Richard Gelder
Highways Services Manager
Phone: (01274) 437603
E-mail: Richard.gelder@bradford.gov.uk

Overview & Scrutiny Area:

Regeneration & Environment

1. SUMMARY

- 1.1 This report seeks the committee's approval to replacing the Council's current Transportation and Highways Scheme of Delegation (2017) with an up-to-date scheme for regulation of officer decision-making.
- 1.2 The proposed update of the Scheme of Delegation contains powers and functions which require delegation approval by both the Executive and Regulatory and Appeals committee in order to be fully adopted. Executive have already approved the revised scheme at its meeting on 7 November 2023 and to become fully operational approval of the Regulatory & Appeals Committee is similarly required for those powers which are not Executive functions.
- 1.3 This report contains a proposed replacement Scheme for consideration and approval by the committee which addresses recent officer structure changes and the introduction of new legislation and available powers.

2. BACKGROUND

- 2.1 Since its creation on 1 April 1974 the Council has adopted a general scheme of delegation to cover the responsibilities of Committees, Sub-committees and Officers. Regarding the powers given to Officers, the general delegations have given flexibility enabling decisions to be made as efficiently and speedily as possible. Recent trends in challenging decisions taken by officers have shown that the Courts and the Local Government Ombudsman are now requiring greater reassurance that decisions taken within the organisation, particularly decisions by Officers, have a specific and clear underpinning by stated terms of reference.
- 2.2 The current Scheme for Highways and Transportation matters as enclosed in Appendix A and was previously approved on 1 December 2017 and was amended by delegated decision on 21 June 2018 following a restructure of the Planning, Transportation and Highways Service.
- 2.3 The necessity to undertake regular periodic reviews of the Scheme is essential considering both changes to legislation affecting highway authorities but also to ensure that the Scheme reflects the posts which exist within the officer structure of Planning, Transportation and Highways.
- 2.4 The latest revision of the Scheme as proposed in Appendix B has identified several areas of highway operations where further delegation of powers would be beneficial to effective decision making on highways matters, including:
 - a) Use of Community Protection Notices (CPNs) under Section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014 to enable effective enforcement of highway related matters.
 - b) Powers related to the protection of the highway in advance of major infrastructure improvements by statutory undertakers.
- 2.5 New delegations are proposed to roles which have been added to the Planning, Transportation and Highways officer structure since 2018 including:

- a) Delegation of powers to the Principal Engineer (Highway Structures) and Group Engineer (Highway Structures) to facilitate movement of abnormal loads and protection of bridges where works are carried out by others.
- b) Delegation of powers to the new post of Traffic and Enforcement Co-ordinator including the use of DVLA devolved powers.

2.6 The amendments to the Scheme also include minor text corrections and clarifications as to the limitations of delegated powers.

3. OTHER CONSIDERATIONS

3.1 The existence of a specific Scheme of Delegation for Highways and Transportation means that Officer decisions taken in respect of highways matter should be taken by reference to the Scheme alone. Reliance should not generally be made on paragraph 14 Part 2 Articles of the Constitution if the Scheme specifically covers the matter at hand.

3.2 The opportunity of reviewing and amending the current Scheme should be taken to specify clearly what legal powers are being used in taking decisions. However, it was stressed in the report establishing a Scheme of Delegation in November 1988 that vigilance must be maintained on the part of the Council to identify any additional powers give to the local Highway Authority by new legislation. This is to ensure that any adopted Scheme remains relevant and is used to its full effect where new powers and legislative arrangements change.

3.3 The proposed scheme contains a range of delegations which are both functions which the Executive can delegate as well as functions which have been devolved to the Regulatory and Appeals Committee.

3.4 Executive considered the proposed scheme of delegation at their meeting of 7 November and approved adoption of those specific executive functions within the scheme (indicated by (ED) adjacent to the delegation entry). This separate approval of the Regulatory and Appeals committee to the proposed scheme is necessary before the new scheme can become operational and covers those other powers and functions not suffixed with the '(ED)' reference.

3.5 New entries and minor text alterations are indicated by italic text in the proposed scheme. Deletions of previous delegations as shown using crossed out text for minor alterations and where specific whole delegations are being deleted the delegation is prefaced by '(DELETED)'.

Specific requirements in relation to Officer decisions

3.6 In recognition of the need to ensure that Ward Members are appraised of delegated decisions being taken affecting their ward some provisions require prior notification to be given by the Officer taking the decision. Such requirement is indicated by an asterix (*).

3.7 Where a decision must first be referred to a Ward Member, who can object to the decision being taken by delegation, the scheme recognises that the matter should be

referred to the appropriate Area Committee for determination. Functions and powers where such referrals are permitted are indicated by a double asterisk (**) against the specific provision.

- 3.8 Some delegated decisions also require prior notification to the Chair of the appropriate Area Committee to be provided by the Officer. Again, where the Chair does not support the matter being considered via delegated decisions the matter can be referred to the Area Committee for determination. Such delegations are indicated by a '†' suffix.
- 3.9 In both circumstances set out in paragraphs 3.6 to 3.8 above where the Officer has been advised that the matter is to be referred to the appropriate Area Committee the delegated powers will no longer apply.
- 3.10 In accordance with the requirements of regulation 7 of the Openness of Local Government Bodies Regulations 2014 several delegations are subject to the requirement to formally record their determination. Such decisions are suffixed (W) in the Scheme. In accordance with regulation 8 records of background papers together with the formal decision record will be published on the Council's website.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 An effective and up to date Scheme of Delegation will assist the Council in achieving effective and efficient decision making in relation to responding to service requests relating to highways and transportation matters.
- 4.2 The incorporation of wider delegated powers for taking positive action on highway enforcement matters will also reduce the financial burden of such activity on the revenue budgets of the Council through allowing timely and expeditious action to be taken.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 A fully detailed and updated Scheme of Delegation will help establish the transparency of decision making.

6. LEGAL APPRAISAL

- 6.1 The Local Government Act 1972 sets out tiered levels of decision making in local government. The Local Government Act 2000 gives various models that potentially depart from the traditional system, but essentially one requirement of transparency as to where and how decisions are taken is given even more emphasis. Decisions can be made with respect to a local authority by:-

- a) The Council Meeting of all its Members,
- b) The Executive,
- c) A committee established by the Council or the Executive,
- d) A sub-committee, or
- e) An officer.

Officers can be empowered to make decisions by:

- a) The Council itself,
- b) The Executive,
- c) The Committee, or
- d) The sub-committee.

- 6.2 Some specific highway powers and duties are matters for the Council; these have been sub-delegated to regulatory and appeals committee. The detailed list is contained in the Local Authorities (Functions and Responsibilities) (England) regulations 2000. Any other highway powers are for the executive. Approval of the officer scheme of delegation, which contains a mix of regulatory and non-regulatory powers therefore requires approval by both the Executive and Regulatory and Appeals Committee.
- 6.3 This scheme of delegation may require further amendment arising from any findings of a wider review of the Council's constitution.

7. OTHER IMPLICATIONS

Sustainability Implications

- 7.1 There are no sustainability implications arising from this report.

Tackling the Climate Emergency Implications

- 7.2 There are no climate emergency implications arising from this report.

Community Safety Implications

- 7.3 Effective and timely decisions in relation to highway enforcement matters can have a positive impact on the safety of the highway network for all users. The proposals contained within this report provide an efficient and effective structure within which timely decisions can be made.

Human Rights Act

- 7.4 The Human Rights Act 1998 provides a legal basis for concepts fundamental to the rights of people. The proposed Scheme specifically requires Officers to take account of Human Rights issues when making decisions.

Trade Union

- 7.5 There are no trade union implications associated with this report.

Implications for Children and Young People

- 7.6 Whilst there are no direct implications for children and young people in the approval of the revised scheme of delegation sought it should be noted that some of the delegations under the scheme relate to matters which could affect children and young people's use of the highway. Where such decisions are taken under the scheme due consideration will be given to these implications.

Issues Arising from Privacy Impact Assessment

- 7.7 There are no issues arising in relation to the privacy impact assessment pertaining to the contents of this report.

8. NOT FOR PUBLICATION DOCUMENTS

- 8.1 None

9. OPTIONS

- 9.1 The Regulatory and Appeals committee may decide to approve the proposed 2023 Scheme of Delegation as outlined in this report, or
- 9.2 Alternatively, that the Regulatory and Appeals committee may decide to only approve specific non-Executive powers in the replacement Scheme in which case these powers will be removed from the final version of the scheme adopted.

10. RECOMMENDATIONS

- 10.1 That the Regulatory and Appeals Committee approves the adoption of the replacement Scheme of Delegation for Highways and Transportation matters as set out in Appendix B of this report in substitution for the current Scheme of Delegation for Highways and Transportation matters as set out in Appendix A of this report in so far as the powers listed in the revised Scheme of Delegation are non- Executive functions.
- 10.2 That the revised Scheme of Delegation as set out in Appendix B will become operative only if, and when, approved by both Executive and Regulatory and Appeals Committee and the provisions of the previous Scheme of Delegation as set out in Appendix A will then be revoked.
- 10.3 That the revised Scheme of Delegation shall remain in force until such time as it may be substituted, modified, varied, or repealed by decisions of the Executive or Regulatory and Appeals Committee or such person or body inheriting the powers of the Executive or Regulatory and Appeals Committee.

11. APPENDICES

- 11.1 Appendix A – Scheme of Delegation for Highways and Transportation Matters operational from 21 June 2018.
- 11.2 Appendix B – Proposed replacement Scheme of Delegation 2023.

12. BACKGROUND DOCUMENTS

Local Government Act 1972

Local Government Act 2000

The Openness of Local Government Bodies Regulations 2014.

The Council's Constitution

This Scheme of Delegation (“the Scheme”) is made under the powers contained in Section 101 of the Local Government Act 1972, Town Police Clauses Act 1847, the Highways Act 1980, the Road Traffic Act 1984, the Town and Country Planning Act 1990, Local Government Miscellaneous Provisions Act 1976, the Anti-Social Behaviour Crime and Policing Act 2014, the New Roads and Street Works Act 1991, the Wildlife and Countryside Act 1981, the Clean Neighbourhoods and Environment Act 2005, the Anti-social Behaviour Act 2003, Traffic Management Act 2004, Article 14.20 of the Council’s Constitution and all other enabling powers. It was approved by the Executive Committee of the Council on 7 November 2017 and took effect on 1 December 2017 and amended by delegated decision on 21 June 2018.

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

DEPARTMENT OF PLACE

Scheme of Delegation of Highway Decisions December 2017 (revised June 2018)

General Matters and Definitions

- 1) When making decisions in the exercise of the following delegated powers the relevant officers shall act in their own name.
- 2) Any decision taken in pursuance of this scheme must comply with:-
 - a) Any statutory requirements with regard to the matters to be taken into considerations in making the decision;
 - b) The Council’s Constitution;
 - c) The general principles of the Human Rights Act 1998;
 - d) Any other relevant protocols adopted by the Council from time to time.
- 3) Where reference is made in this scheme to a statute or statutory instrument that reference shall include any statute or statutory instrument revoking and re-enacting the original statute or statutory instrument with or without modification.

Referral of matters to the Authority or Relevant Committee

- 4) In exercising these powers, officers shall have regard to any relevant policies or plans adopted by the Council, and shall have general regard to the desirability of

referring any matter to the Area Committee or the Executive for decision. Officers shall at all times be entitled to decline to exercise any of the powers delegated by this scheme and to refer the matter to a higher level of decision making or alternatively to the appropriate Member body where they consider it expedient to do so. In deciding whether a matter should be referred to Committee or the Executive for decision, Officers shall have regard to the impact, sensitivity and possible controversial nature of the matter.

- 5) Officers shall accede to any request in writing or by electronic format made by a member of Council, or pursuant to a resolution of the Executive or of a committee or sub-committee thereof, that an item be referred to the next level of decision making as set out in this Scheme of Delegation or to the appropriate Area Committee or the Executive.
- 6) This scheme is additional to and without prejudice to the powers of the Strategic Director: Place or other relevant officers to make decisions under the general powers delegated to officers in the Council's Constitution.
- 7) Delegations marked (ED) are Executive Decisions, all other delegations are non-Executive. Records of officer decisions using these delegations should be recorded on the appropriate record of officer decisions forms.

Sub Delegations

- 1) Officers named in the scheme may authorise officers under their management to exercise powers on their behalf. Any decisions taken under this authority shall remain the responsibility of the Officer to whom the power has been specifically delegated and shall be taken in the name of that Officer.
- 2) Where an Officer specifically referred to in this Scheme is absent for any period, he/she may nominate in writing another Officer to act in that capacity during the appropriate period of absence.

The following powers to act on behalf of the Council as local highway authority are delegated.

PART A

Delegation of Powers to All Highways Officers (incl. Countryside and Rights of Way Officers)

The following powers to take action in relation to highway matters shall be exercised under this part by all staff.

A1 Removal of Unauthorised Signs and Markings

The power to remove unauthorised marks, pictures, signs etc. upon the surface of a highway, any tree, structure, item of street furniture or works on a Highway under Section 132 of the Highways Act 1980.

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART B

Delegation to Senior Engineer

The following powers to take action in relation to highway matters shall be exercised under this part provided that no written representations, including any petition, objecting to the proposal have been received:

B1 Highway Safety

Power to authorise the erection of barriers in any street for the purpose of securing public safety, public order or preventing congestion of traffic in the cases of emergency under Section 287 of the Highways Act 1980.(ED)

Power to authorise the service of a notice relating to dangerous land adjoining a street under Section 165 of the Highways Act 1980.(ED)

Power to authorise the service of a notice relating to prevention of soil etc. being washed onto the street under Section 151 of the Highways Act 1980.(ED)

Power to authorise the service of a notice for prevention of water falling on or flowing onto a Highway under Section 163 of the Highways Act 1980.(ED)

B2 Retaining Walls

Power to authorise the service of a notice requiring the execution of works to obviate the danger caused to people using a street by a retaining wall under Section 167 of the Highways Act 1980.(ED)

B3 Alterations to Adjoining Structures and Land

Power to authorise the service of notices requiring removal or widening of gates across the highway under Section 145 of the Highways Act 1980.(ED)

Power to authorise the service of a notice requiring alterations of a door etc. which opens onto a Highway under Section 153 of the Highways Act 1980.(ED)

Power to authorise the service of a notice requiring removal of barbed wire on land adjoining a Highway under Section 164 of the Highways Act 1980.(ED)

B4 Temporary Prohibition or Restriction on Roads

Power to authorise the making of orders for the temporary restriction or prohibition of the use of a road by vehicles or classes of vehicles or pedestrians under Section 14 of the Road Traffic Regulation Act 1984.(ED)

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† Prior consultation with the Chair of the appropriate Area Committee

PART C

Delegation to Highway Enforcement Officer and Traffic Officer

All powers conferred under delegation B1 above together with the following:

C1 Treatment of Vegetation

Power to authorise the issue of a notice requiring the cutting or removal of a hedge, tree or shrub overhanging the highway under Section 154 of the Highways Act 1980.(ED)

Power to serve notice requiring the removal of any tree or shrub planted within 15 feet from the centre of a made-up carriageway within 21 days of the notice under Section 141 of the Highways Act 1980. (ED)

Power to authorise the granting of a license permitting the owner or occupier of premises adjoining the Highway to plant and maintain trees, shrubs, plants or grass in such part of the Highway as is specified under Section 142 of the Highways Act 1980.(ED)

C2 Removal of Nuisance Obstructions

Power to authorise removal of things so deposited on a Highway as to cause a nuisance under Section 149 of the Highways Act 1980.

Power to authorise the removal of a continuing obstruction and recover costs in so doing from the offender under Section 137 of the Highways Act 1980.(ED)

Power to authorise the removal or repositioning of builder's skips deposited on the highway and recover the costs in so doing under Section 140 of the Highways Act 1980.(ED)

Power to authorise the issue of Fixed Penalty Notices to person or persons guilty of committing an offence under Part 2, Sections 3 and 4 of the Clean Neighbourhoods and Environment Act 2005.

C3 Vehicle Crossings over Footways and Verges

Power to authorise the service of notices relating to vehicular crossings over footways and verges under Section 184 of the Highways Act 1980.(ED)

C4 Enforcement

Power to determine that no further action be taken in a complaint about a matter which could have been subject to enforcement action where (ED):-

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† Prior consultation with the Chair of the appropriate Area Committee

- (a) It is considered that the matter complained of has not occurred; or
- (b) That the matter complained of is not a breach of highways legislation, or does not otherwise fall within the statutory powers relating to enforcement action.

Power to instruct the City Solicitor to commence legal proceedings against a party or parties contravening highway legislation under Section 135 of the Highways Act 1980.(ED)

C5 Fixed Penalty Notices

Power to serve a notice under Section 6 of the Clean Neighbourhoods and Environment Act 2005.

Power to require name and address details of a person or persons under Section 43B of the Anti-Social Behaviour Act 2003 for the purpose of serving a Fixed Penalty Notice.

C6 Graffiti

Power to act as authorised officer of the Council as defined under Part 43(1) of the Anti-social Behaviour Act 2003.

C7 Skips and Scaffolding

Power to require removal of a builders' skip under Section 140 of the Highways Act 1980.(ED)

Power to issue a license authorising the erection of scaffolding or any other structure which obstructs the highway over the highway under Section 169 of the Highways Act 1980

Power to issue a license authorising the placement of a builders' skip on the Highway under Section 139 of the Highways Act 1980.

Power to permit the temporary deposit of building materials, rubbish or other things in a Highway or the making of a temporary excavation on it under Section 171 of the Highways Act 1980.

C8 Events on the Highway

Power to authorise the City Solicitor to make an order for the temporary prohibition or restriction of the Highway by vehicles of any class or pedestrians under Section 16A of the Road Traffic Regulation Act 1984.(ED)

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† Prior consultation with the Chair of the appropriate Area Committee

PART D

Delegation to Senior NRSWA Co-ordinator, NRSWA Co-ordinator and Network Resilience Support Officer

All powers conferred under delegation C2, C5, C6, C7 and C8 above together with the following:

D1 Qualification of street works Operatives

Power to require all street works operatives and supervisors to demonstrate appropriate qualification to undertake works on the Highway under Section 68 of the New Roads and Street Works Act 1991.(ED)

D2 Statutory Undertakers' Reinstatements

Power to serve notice requiring remedial works to an undertakers' reinstatement to address failures under Section 72 of the New Roads and Street Works Act 1991. (ED)

D3 Fixed Penalty Noticing

Power to authorise the issue of Fixed Penalty Notices to undertakers serving notices and working on or within the highway for failure to comply with the requirements of the Traffic Management Permit Scheme (England) Regulations 2007. Part 5 (Sanctions) and/or the City of Bradford Metropolitan District Council Permit Scheme 2015 (Yorkshire Common Permit Scheme) Statutory Instrument. (ED)

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† Prior consultation with the Chair of the appropriate Area Committee

PART E

Delegation to Principal Engineer

All powers conferred in Parts A and B above together with the following additional powers which shall be exercised under this part provided that no written representations including any petition objecting to the proposal have been received:

E1 Highways Safety

Power to authorise the service of a notice requiring removal of projections from buildings under Section 152 of the Highways Act 1980.(ED)

Power to serve a notice requiring the prevention of danger, obstruction or inconvenience emanating from a forecourt abutting a street under Section 166 of the Highways Act 1980.(ED)

E2 Traffic Calming and Road Humps

Power to construct Road Humps in a Highway under Section 90A of the Highways Act 1980. †(ED)

Power to construct Traffic Calming works in a Highway under Section 90G of the Highways Act 1980. †(ED)

E3 Traffic Regulation Orders

Power to authorise the making of orders providing inter alia for the routing of traffic through specified streets, closing of adjoining streets and removal of obstructions under Section 21 of the Town Police Clauses Act 1847.(ED)

Power to authorise the City Solicitor to make experimental orders under Section 9 of the Road Traffic Regulation Act 1984. ** †(ED)

After receiving general authorisation from the appropriate Area Committee or Planning Panel, the Regulatory and Appeals Committee, Executive or Council the power to authorise the City Solicitor to make appropriate traffic regulation orders under Section 1 of the Road Traffic Regulation Act 1984.(ED)

E4 Pedestrian Crossings

Power to authorise the establishment, alteration or removal of crossings for pedestrians under Section 23 of the Road Traffic Regulation Act 1984. * †(ED)

E5 Traffic Signs

Power to cause or permit the placing of traffic signs on or near a road (including

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† Prior consultation with the Chair of the appropriate Area Committee

signs conveying information of a temporary nature) under Section 65 of the Road Traffic Regulations Act 1984.(ED)

E6 Removal of Unauthorised Structures

Power to authorise the issue of a notice requiring a person having control or possession of an unauthorised structure erected or set up on a highway to remove it under Section 143 of the Highways Act 1980.(ED)

E7 Powers of Entry

Power to authorise in writing a person to enter land for the purpose of maintaining, altering or removing a structure or works on land under Section 291 of the Highways Act 1980.(ED)

E8 Private Streets

Power to adopt a private street under Section 228 of the Highways Act 1980.(ED)

E9 Damage to the Highway

Power to authorise the making of a complaint to Magistrates Court with respect to damage of a Highway consequent on exclusion of sun and wind under Section 136 of the Highways Act 1980.(ED)

E10 Granting of Licenses and Consents

Power to authorise the granting of licenses to construct a bridge over the Highway under Section 176 of the Highways Act 1980.(ED)

Power to give consent to the making of openings into cellars etc. under streets or the provision of pavement lights and ventilators under Section 186 of the Highways Act 1980.(ED)

Power to authorise the issue of a notice requiring a person who has constructed a cellar under the Highway without proper authorisation to remove, alter or deal with them in such a manner as specified under Section 179 of the Highways Act 1980.

E11 Alterations to Adjoining Structures and Land

Power to authorise erection, and service of notices requiring repair and maintenance of stiles, gates etc. on footpaths or bridleways under Section 146, 147 and 147ZA of the Highways Act 1980.

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART F

Delegation to Principal Engineer (Highway Development Control)

All powers conferred by Part E above together with the following powers:

F1 Alteration of Highway Status

Power to make an application to the Secretary of State for an order extinguishing the right to use vehicles on Highways under Section 249 of the Town and Country Planning Act 1990 where the Council has adopted a proposal for improving the amenity of the area under Section 249 of the Act 1990. (ED)

Power to make an application to the Secretary of State for an order stopping up or diversion of any highway under Section 247 of the Town and Country Planning Act 1990.(ED)

Power to authorise the making of an application on behalf of the Council for the stopping up or diversion of a Highway under Section 116 of the Highways Act 1980.(ED)

Power to sign certificates approving works carried out by agreement under Section 38 of the Highways Act 1980.(ED)

F2 Power to prepare Legal Agreements

Power to authorise the making or alteration of an agreement relating to the contribution to the cost of works on the Highway under Section 278 of the Highways Act 1980(ED)

Power to authorise the making of an agreement whereby a new street becomes a Highway maintainable at public expense under Section 38 of the Highways Act 1980.(ED)

Power to authorise the making of an order under Section 124 of the Highways Act 1980 to stop up the private means of access to a publicly maintained highway. **
†(ED)

F3 Sight Lines

Power to serve notice requiring removal of obstructions from sight lines under Section 79 of the Highways Act 1980.(ED)

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART G

Delegation to Principal Engineer (Network Resilience & Management)

All powers conferred in Parts C, D and E and in delegation F3 plus the following powers:

G1 Skips and Scaffolding

Power to authorise the disposal of a builders skip under Section 140 of the Highways Act 1980.(ED)

G2 Illegal Apparatus

Power to serve notice requiring removal of unauthorised apparatus in a street and taking of measures to reinstate the street under Section 51 of the New Roads and Street Works Act 1991.(ED)

G3 Traffic Manager

Power to act in the role of Traffic Manager for the Authority as specified in the Network Management Duty of the Traffic Management Act 2004 under Section 17(2). (ED)

G4 Openings into Cellars

In consultation with the Principal Engineer Highway Structures the power to authorise the making of an opening of a street as an entrance to a cellar or vault thereunder giving direction as the construction of the door or covering to such opening to be provided under Section 180 of the Highways Act 1980.

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART H

Delegation to Principal Engineer (Street Lighting)

All powers conferred in Part E plus the following powers:

- H1 Power to erect flagpoles etc. on Highways under Section 144 of the Highways Act 1980.(ED)

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART J

Delegation to Countryside & Rights of Way Service Manager

All powers conferred in delegation B3, C2 (solely in relation to provisions relating to Section 149 of the Highways Act 1980), E6 and E11 plus the following powers:

J1 Creation of Public Footpaths and Bridleways

Power to authorise the City Solicitor to make a Creation Agreement for a footpath under Section 25 of the Highways Act 1980.

Power to authorise the City Solicitor to exercise powers of compulsory creation of a footpath under Section 26 of the Highways Act 1980.†

J2 Stopping Up or Diversion

Power to authorise the City Solicitor to make an order for the stopping up or diversion of a public footpath or bridleway under Section 257 of the Town and Country Planning Act 1990. * †(ED)

Power to authorise the services of stopping up and diversion orders for public paths under Section 257 of the Town and Country Planning Act 1990.

Power to authorise the stopping up or temporary diversion of a public footpath or bridleway to enable minerals to be works together with the restoration of the footpath line under Section 261 of the Town and Country Planning Act 1990.

Power to authorise the City Solicitor to make a Combined Order under Section 53(a) of the Countryside and Wildlife Act 1981 for the extinguishment or diversion of a public footpath or bridleway or restricted byway under Section 118 and 119 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990.

J3 Maintenance of Footpaths and Bridleways

Power to authorise the making of an order for the temporary disturbance of the surface of a footpath or bridleway under Section 135 of the Highways Act 1980. (ED)

J4 Extinguishment of Footpaths and Bridleways

Power to authorise the City Solicitor to make an order for the extinguishment or diversion of a public footpath or bridleway under Sections 118, 118(a), 118(b) , 119, 119(a) and 119(b) of the Highways Act 1980.

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

J5 Duty to Maintain

Power to authorise the service of a notice to require repair of stile, gate etc. under Section 146 of the Highways Act 1980.

Power to authorise the City Solicitor to enter into an agreement to provide routes by permission of the landowner under Section 39(1) of the Wildlife and Countryside Act 1981.

J6 Definitive Map

Power to make a Modification Order based on a confirmed and operative legal event under Section 53(3)(a) of the Wildlife and Countryside Act 1981.

Power to make a Modification Order based on evidence discovered by the Authority under Section 53(3)(a), 53(3)(b) and 53(3)(c) of the Wildlife and Countryside Act 1981.

Power to make determination of applications to modify the Definitive Map under Section 53(5) of the Wildlife and Countryside Act 1981.

J7 Management Agreements

Power to instruct the City Solicitor to prepare and enter into a Management Agreement for land for the purposes of conserving or enhancing the natural beauty or amenity under Section 39(1) of the Wildlife and Countryside Act 1981.

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART K

Delegation to the Highways Services Manager

All powers under Parts A, B, C, D, E, F, G, and H but without the restrictions imposed to those parts, together with the following powers:

K1 Alterations to Adjoining Structures and Land

Power to grant a license in respect of construction or alteration of a building over any part of the Highway maintainable at public expense under Section 177 of the Highways Act 1980.(ED)

K2 Land Matters

Power to enter land for the purpose of surveying under Section 289 of the Highways Act 1980.(ED)

Power to require information as the ownership of land under Section 297 of the Highways Act 1980. ** (ED)

Power to authorise in writing a person to enter land for the purposes of maintaining, altering, replacing or removing traffic signs under Section 71 of the Road Traffic Regulation Act 1984.(ED)

K3 Legal Agreements

Power to sign certificates for works to be carried out and carried out by agreement under Section 278 of the Highways Act 1980.(ED)

Power to vary the levels of commuted sums payable in connection with works under Section 278 (3) of the Highways Act 1980.(ED)

K4 Playgrounds on Roads

Power to authorise the City Solicitor to make an order to prohibit or restrict the use of the Highway by vehicles or vehicles of any specified class during specified periods for the purpose of creating a playground for children under Section 29 of the Road Traffic Act 1984. ** †(ED)

K5 Public Space Protection Orders

Power to authorise the City Solicitor to make a public space protection order for any relevant highway for the purpose of reducing anti-social behaviour under Section 59 of Anti-Social Behaviour Crime and Policing Act 2014. ** †(ED)

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

Power to authorise the City Solicitor to vary or discharge a public space protection order for any relevant highway for the purpose of reducing crime or anti-social behaviour under Section 59 of Anti-Social Behaviour Crime and Policing Act 2014. (ED)** †

K6 Shared Use Footways

Power to authorise the City Solicitor to make an order for the conversion of footways to shared use under Section 66(4) and 65(1) of the Highways Act 1980.. ** †(ED)

K7 Agreements with Neighbouring Authorities

Power to authorise the City Solicitor to prepare an agreement or agreements with a neighbouring authority for authority in relation to construction, reconstruction, alteration, improvement or maintenance of a highway for which any party to the agreement are the Highway Authority under Section 8 of the Highways Act 1980.(ED)

Power to authorise the City Solicitor to prepare an agreement or agreements with a neighbouring authority for the authority to take responsibility for the adjoining authority's road under Section 85 of the Highways Act 1980. (ED)

Power to authorise the City Solicitor to prepare an agreement or agreements with the West Yorkshire Combined Authority in relation to the funding of capital construction projects associated with the West Yorkshire+ Transport Fund.

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

PART L

Delegation to Assistant Director: Planning, Transportation & Highways

All powers under Part K above but without the restrictions imposed to those parts, together with the following powers:

L1 Property Blight

Power to authorise the Director of Corporate Services to purchase properties subject to valid blight notice under suitable terms and conditions under Section 149 and Schedule 13 of the Town and Country Planning Act 1990. * †(ED)

L2 Agreements with the Secretary of State

Power to enter into an agreement under Section 4 of the Highways Act 1980 with the Secretary of State for Transport in relation to works to the trunk road network carried out as a result of works on the local authority roads. (ED)

Power to enter into an agreement under Section 6 of the Highways Act 1980 with the Department for Transport in relation to works carried out to local authority roads as a result of works carried out on the trunk road network. (ED)

L3 New Roads and Street Works Act

Authority to exercise all powers and duties of the Council conferred under Part 3 of the New Roads and Street Works Act 1991 (as amended) (ED)

Power to authorise Officers of the Council's Department of Place to issue Fixed Penalty Notices for offences committed under Section 95A and Schedules 4A and 4B of the New Roads and Street Works Act 1991 (as amended by Section 41 and Schedules 2 and 3 of the Traffic Management Act 2004).(ED)

* Prior Notification to be given to Ward Members

** Prior Notification to be given to Ward Members and referral to the relevant Area Committee in the event of any objections to the decision making process

† Prior consultation with the Chair of the appropriate Area Committee

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Scheme of Delegation of Highway and Transportation Matters

XXXXXXXXXXXX 2023

This Scheme of Delegation (“the Scheme”) is made under the powers contained in Section 101 of the Local Government Act 1972, Town Police Clauses Act 1847, the Highways Act 1980, the Road Traffic *Regulation* Act 1984, the Town and Country Planning Act 1990, Local Government Miscellaneous Provisions Act 1976, the Anti-Social Behaviour Crime and Policing Act 2014, the New Roads and Street Works Act 1991, the Wildlife and Countryside Act 1981, the Clean Neighbourhoods and Environment Act 2005, the Anti-social Behaviour Act 2003, Traffic Management Act 2004, *the Housing and Planning Act 2016, Refuse Disposal (Amenity) Act 1978, Road Vehicles (Registration and Licensing) Regulations 2022, Vehicle Excise and Registration Act 1993, Traffic Management Permit Scheme (England) Regulations 1994*, Article 14.20 of the Council’s Constitution and all other enabling powers. It was approved by the Executive Committee of the Council on *7 November 2023 and Regulatory and Appeals Committee on XX XXXXXXXX 2023 and supersedes and revokes all previous schemes of delegation.*

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General Matters and Definitions

- 1) When making decisions in the exercise of the following delegated powers the relevant officers shall act in their own name.
- 2) Any decision taken in pursuance of this scheme must comply with:-
 - a) Any statutory requirements with regard to the matters to be taken into considerations in making the decision;
 - b) The Council's Constitution;
 - c) The general principles of the Human Rights Act 1998;
 - d) Any other relevant protocols adopted by the Council from time to time.
- 3) Where reference is made in this scheme to a statute or statutory instrument that reference shall include any statute or statutory instrument revoking and re-enacting the original statute or statutory instrument with or without modification.
- 4) *Any delegated authority which grants the power to serve a notice or carry out other action shall, where appropriate, include the power, where authorised by statute, to authorise the carrying out of works in default of compliance with the notice and/or to recover the costs of so doing and where necessary instruct the Director of Legal and Governance to initiate legal proceedings.*

Referral of matters to the Executive or relevant committee

- 5) In exercising these powers, officers shall have regard to any relevant policies or plans adopted by the Council and shall have general regard to the desirability of referring any matter to the Area Committee or the Executive for decision. Officers shall always be entitled to decline to exercise any of the powers delegated by this scheme and to refer the matter to a higher level of decision making or alternatively to the appropriate Member body where they consider it expedient to do so. In deciding whether a matter should be referred to Committee or the Executive for decision, Officers shall have regard to the impact, sensitivity and possible controversial nature of the matter.
- 6) Officers shall accede to any request in writing or by electronic format made by a member of Council, or pursuant to a resolution of the Executive or of a committee or sub-committee thereof, that an item be referred to the next level of decision making as set out in this Scheme of Delegation or to the appropriate Area Committee or the Executive.
- 7) This scheme is additional to and without prejudice to the powers of the Strategic Director: Place or other relevant officers to make decisions under the general powers delegated to officers in the Council's Constitution.

Requirements in relation to decisions taken under the scheme of delegation

- 8) *Delegations marked (ED) are Executive Decisions all other delegations relate to non-Executive functions which are delegated by the Council to the Regulatory and Appeals Committee.*

- 9) *Delegations marked with (W) require a written record to be made of the decision taken by the officer authorised by this scheme. Such records shall be made on the appropriate record of officer decision forms in accordance with the requirements of regulation 7 of the Openness of Local Government Bodies Regulations 2014 (“the 2014 Regulations”) and shall be published in accordance regulation 8 of the 2014 Regulations. Responsibility for compliance with these requirements rests with the officer making the decision.*

Sub Delegations

- 10) Officers named in the scheme may authorise officers under their management to exercise powers on their behalf. Any decisions taken under this authority shall remain the responsibility of the Officer to whom the power has been specifically delegated and shall be taken in the name of that Officer.
- 11) Where an Officer specifically referred to in this Scheme is absent for any period, he/she may nominate in writing another Officer to act in that capacity during the appropriate period of absence.

Symbols used in this scheme

- 12) The following symbols used in this Scheme are assigned the following meanings:

| Symbol | Meaning |
|--------|--|
| * | Prior notification of a decision relating to this matter must be given to Ward Members by the officer taking the decision. |
| ** | Prior notification of a decision relating to this matter must be given to Ward Members by the officer and referred to the relevant Area Committee in the event of any objections to the decision making process. |
| † | Prior consultation with the Chair of the appropriate Area Committee. |

The following powers to act on behalf of the Council as local highway authority are delegated.

PART A

Delegation of Powers to All Highways Officers (incl. Countryside and Rights of Way Officers)

The following powers to take action in relation to highway matters shall be exercised under this part by all staff, *and are included without limitation in all delegation Parts listed within the Scheme.*

A1 Removal of Unauthorised Signs and Markings

The power to remove unauthorised marks, pictures, signs etc. upon the surface of a highway, any tree, structure, item of street furniture or works on a Highway under Section 132 of the Highways Act 1980. (ED)

PART B

Delegation to Senior Engineer

The following powers to take action in relation to highway matters shall be exercised under this part provided that no written representations, including any petition, objecting to the proposal have been received:

B1 Highway Safety

Power to authorise the erection of barriers in any street for the purpose of securing public safety, public order or preventing congestion of traffic in the cases of emergency under Section 287 of the Highways Act 1980. (ED) *(W)*

Power to ~~authorise the prepare and serve of~~ a notice relating to dangerous land adjoining a street *which is unfenced or inadequately fenced and a source of danger to persons using the street* under Section 165 of the Highways Act 1980 *requiring such works as may be specified to be carried out to obviate the danger within a prescribed period.* (ED)

Power to ~~authorise the prepare and serve of~~ a notice relating to prevention of soil etc. being washed onto the street under Section 151 of the Highways Act 1980. (ED)

Power to ~~authorise the prepare and serve of~~ a notice for prevention of water falling on or flowing onto a Highway under Section 163 of the Highways Act 1980. (ED)

Power ~~authorise the prepare and serve of~~ a notice requiring the execution of works to obviate the danger caused to people using a street by a retaining wall under Section 167 of the Highways Act 1980.(ED)

B2 Alterations to Adjoining Structures and Land

Power to ~~authorise the prepare and serve of~~ a notice requiring removal or widening of gates across the highway under Section 145 of the Highways Act 1980. (ED)

Power to ~~authorise the prepare and serve of~~ a notice requiring alterations of a door etc. which opens onto a Highway under Section 153 of the Highways Act 1980. (ED)

Power ~~authorise the prepare and serve of~~ a notice requiring removal of barbed wire on land adjoining a Highway under Section 164 of the Highways Act 1980. (ED)

B3 Temporary prohibition or restriction on roads

Power to authorise the making of orders for the temporary restriction or prohibition of the use of a road by vehicles or classes of vehicles or pedestrians under Section 14 of the Road Traffic Regulation Act 1984. (ED) *(W)*

PART C

Delegation to **Senior** Highway Enforcement Officer and Traffic Officer

All powers conferred under delegation B1 together with the following:

C1 Treatment of Vegetation

Power to ~~authorise the prepare and serve of~~ a notice requiring the cutting or removal of a hedge, tree or shrub overhanging the highway under Section 154 of the Highways Act 1980. (ED) (W)

Power to ~~authorise the prepare and serve of~~ a notice requiring the removal of any tree or shrub planted within 15 feet from the centre of a made-up carriageway within 21 days of the notice under Section 141 of the Highways Act 1980. * (ED) (W)

C2 Private Maintenance of verges

Power to authorise the granting of a license permitting the owner or occupier of premises adjoining the Highway to plant and maintain trees, shrubs, plants or grass in such part of the Highway as is specified under Section 142 of the Highways Act 1980. (W)

C3 Removal of Nuisance Obstructions

Power to authorise removal of things so deposited on a Highway as to cause a nuisance ~~and instruct the Director of Legal and Governance to commence legal action for recovery of costs of so doing~~ under Section 149 of the Highways Act 1980.

Power to authorise the removal of a continuing obstruction and recover costs in so doing from the offender under Section 137 of the Highways Act 1980. (ED) (W)

~~(DELETED) Power to authorise the removal or repositioning of builder's skips deposited on the highway in contravention of the appropriate licence, or unlicensed, and recover the costs in so doing under Section 140 of the Highways Act 1980.(ED)~~

Power to issue a Fixed Penalty Notices to person or persons guilty of committing an offence ~~under the Nuisance Parking offences described in~~ Part 2, Sections 3 and 4 of the Clean Neighbourhoods and Environment Act 2005.

C4 Vehicle Crossings over Footways and Verges

Power to ~~authorise the prepare and serve of~~ a notice relating to *illegal* vehicular crossings over footways and verges under Section 184 of the Highways Act 1980 ~~as to impose conditions on the use of the footway or verge as a crossing or to carry out works to create a legal crossing as may be specified in the notice.~~ (ED) (W)

C5 Considerations in relation to enforcement actions

Power to determine that no further action be taken in a complaint about a matter which could have been subject to enforcement action where:- (ED) (W)

- a. It is considered that the matter of complaint has not occurred; or
- b. That the matter of complaint is not a breach of highways legislation, or does not otherwise fall within the statutory powers relating to enforcement action.

Power to instruct the *Director of Legal and Governance* to commence legal proceedings against a party or parties contravening highway legislation under Section 135 of the Highways Act 1980. (W)

C6 Powers to serve enforcement notices

Power to *prepare and* serve ~~of~~ a notice under Section 6 of the Clean Neighbourhoods and Environment Act 2005 *for offences committed under section 3 (exposing vehicles for sale on a road) and section 4 (repairing vehicles on a road) of the Act.* (ED)

Power to require name and address details of a person or persons under Section 43B of the Anti-Social Behaviour Act 2003 for the purpose of serving a Fixed Penalty Notice. (ED)

Power to serve a community protection notice under Section 43 of the Anti-Social Behaviour, Crime and Policing Act 2014 on persons or owners of premises. (ED) (W) *

Power to prepare and serve a community protection notice under Section 45 of the Anti-Social Behaviour, Crime and Policing Act 2014 including the power to enter premises to the extent reasonably necessary for the purpose of posting the notice. (ED) (W) *

~~(DELETED) Power to act as authorised officer of the Council as defined under Part 43(1) of the Anti-Social Behaviour Act 2003.~~

Power to serve a penalty notice for graffiti and flyposting in accordance with Section 43 of the Anti-Social Behaviour Act 2003. (ED)

C7 Skips and scaffolding

Power to issue a license authorising the placement of a builders' skip on the Highway under Section 139 of the Highways Act 1980.

Power to require the removal or repositioning of builder's skips deposited on the highway *in contravention of the appropriate licence, or unlicensed, and instruct the Director of Legal and Governance to commence legal proceeding to* recover the costs in so doing under Section 140 of the Highways Act 1980. (ED)

Power to issue a license authorising the erection of scaffolding or any other structure which obstructs the highway over the highway under Section 169 of the Highways Act 1980.

C8 Deposit of materials on the highway

Power to permit the temporary deposit of building materials, rubbish or other things in a Highway or the making of a temporary excavation on it under Section 171 of the Highways Act 1980. (W)

C9 Events on the Highway

Power to authorise the *Director of Legal and Governance* to make an order for the temporary prohibition or restriction of the Highway by vehicles of any class or pedestrians under Section 16A of the Road Traffic Regulation Act 1984. (ED)

C10 Execution of Works by others

Power to issue a license authorising the execution of works and use of objects by persons other than the Council under Section 115E of the Highways Act 1980. (W)

Power to impose conditions on licenses issued under Section 115F of the Highways Act 1980 in accordance with Section 115F.

C11 Mud on the Highway

Power to prepare and serve a notice requiring removal of mud deposited on the highway contrary to Section 148 of the Highways Act 1980. (ED)

Power to instruct Cleansing Services to remove mud on the highway and authorise recovery of costs from offender under Section 149 of the Highways Act 1980. (W)

Power to instruct the Director of Legal and Governance to commence legal proceedings against a party or parties contravening highway legislation under Section 161 of the Highways Act 1980. (ED) (W)

PART D

Delegation to NRSWA Senior Co-ordinator, NRSWA **Network** Co-ordinator and Network Resilience Support Officer

All powers conferred under delegation C3, C7 (in relation to those powers delegated under sections 139 and 169 of the Highways Act 1980 only), C9 above together with *F10 in addition to the following:*

D1 Qualification of street works operatives

Power to require all street works operatives and supervisors ~~to~~ demonstrate appropriate qualification to undertake works on the Highway under Section 68 of the New Roads and Street Works Act 1991 *through production of a valid Street Works card when requested.* (ED)

D2 Statutory undertakers' reinstatements

Power to *prepare and serve* a notice requiring remedial works to an undertakers' *permanent* reinstatement works under Section 72 of the New Roads and Street Works Act 1991. (ED)

D3 Fixed Penalty noticing

Power to issue a Fixed Penalty Notice to *statutory* undertakers working on or within the highway for failure to comply with the requirements of the Traffic Management Permit Scheme (England) Regulations 2007. Part 5 (Sanctions) and/or the City of Bradford Metropolitan District Council Permit Scheme 2015 (Yorkshire Common Permit Scheme) Statutory Instrument. (ED)

D4 Temporary prohibition or restrictions on roads

Power to authorise the Director of Legal and Governance to make a temporary traffic regulation order under Section 14 of the Road Traffic Regulation Act 1984. (ED)

PART E

Delegation to the Traffic and Enforcement Co-ordinator

All powers conferred in Parts A, B, and C together with those powers conferred under delegations F1, F6 and H1 together with the following additional powers.

E1 Abandoned vehicles and other things

Power to authorise the removal of an abandoned motor vehicle on land forming part of a highway road (within the meaning of the Road Traffic Regulation Act 1984) to a Council approved storage facility in accordance with the provisions of Section 3 of the Refuse Disposal (Amenity) Act 1978. (ED) (W)

Power to prepare and serve a notice advising of the Council's intention to remove for destruction any motor vehicle at the end of the prescribed period in pursuance of Section 3 of the Refuse Disposal (Amenity) Act 1978. (ED) (W)

Power to authorise and arrange for the disposal of any vehicle in the Council's custody in accordance with Section 4 of the Refuse Disposal (Amenity) Act 1978. (ED)¹ (W)

Power to authorise the Director of Legal and Governance to commence actions required for the recovery of expenses connected with the removal of abandoned vehicles in accordance with Section 5 of the Refuse Disposal (Amenity) Act 1978.

Power to authorise the removal of any thing other than a motor vehicle abandoned without lawful authority on land in the open air or on any land forming part of a highway road (within the meaning of the Road Traffic Regulation Act 1984) and to authorise the Director of Legal and Governance to recover such costs as appropriate for its removal and disposal in accordance with Section 6 of the Refuse Disposal (Amenity) Act 1978. (ED) (W)

E2 DVLA Devolved powers

Power to act as the Council's DVLA Devolved Powers Partner to facilitate the identification of unlicensed vehicles and undertake enforcement action against offences under the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) Regulations 1997 (as amended), Section 29 of the Vehicle Excise & Registration Act 1994 (as amended) and Regulation 27 of the Road Vehicles (Registration and Licensing) Regulations 2022 (as amended). (ED)

E3 Damage to the highway etc.

Power to instruct the Director of Legal and Governance to commence legal proceedings against a party or parties who without lawful authority or excuse have made interfered with the surface of a highway so as to compromise its operation under Section 131 of the Highways Act 1980. (ED) (W)

¹ The requirement of an Written Decision in relation to this matter does not apply when the destruction of the vehicle is associated with the expiration of the notice period previously notified to an individual in accordance with section 3 of the Refuse Disposal (Amenity) Act 1978.

Power to authorise the repair of an adopted highway damaged by or in consequence of any excavation or other work on land adjoining the street, and instruct the Director of Legal and Governance to recover the expenses reasonably incurred for such actions under Section 133 of the Highways Act 1980. (ED) (W)

E4 Building operations

Power to instruct the Director of Legal and Governance to commence legal proceedings against the owner of the land or building committing an act which could give rise to the possibility of serious bodily injury, or death in contravention of Section 168 of the Highways Act 1980. (ED) (W)

PART F

Delegation to Principal Engineer

All powers conferred in Parts A and B above together with the following additional powers which shall be exercised under this part provided that no written representations including any petition objecting to the proposal have been received:

F1 Highways safety

Power to ~~authorise the~~ *prepare and serve of* a notice requiring removal of projections from buildings under Section 152 of the Highways Act 1980. (ED)

Power to *prepare and serve* a notice requiring the prevention of danger, obstruction or inconvenience emanating from a forecourt abutting a street under Section 166 of the Highways Act 1980. (ED)

F2 Traffic calming and road humps

Power to construct Road Humps in a Highway under Section 90A of the Highways Act 1980. † (ED)

Power to construct Traffic Calming works in a Highway under Section 90G of the Highways Act 1980. † (ED)

F3 Traffic regulation orders

Power to authorise the making of orders providing *inter alia* for the routing of traffic through specified streets, closing of adjoining streets and removal of obstructions under Section 21 of the Town Police Clauses Act 1847. † (ED)

Power to authorise the *Director of Legal and Governance* to make experimental orders under Section 9 of the Road Traffic Regulation Act 1984. ** † (ED)

After receiving general authorisation from the appropriate Area Committee or Planning Panel, the Regulatory and Appeals Committee, Executive or Council the power to authorise the *Director of Legal and Governance* to make appropriate traffic regulation orders under Section 1 of the Road Traffic Regulation Act 1984. (ED)

F4 Pedestrian crossings

Power to authorise the establishment, alteration or removal of crossings for pedestrians under Section 23 of the Road Traffic Regulation Act 1984. * † (ED)

F5 Traffic signs

Power to cause or permit the placing of traffic signs on or near a road (including signs conveying information of a temporary nature) under Section 65 of the Road Traffic Regulations Act 1984. (ED)

F6 Removal of unauthorised structures

Power to ~~authorise the~~ *prepare and serve of* a notice requiring a person having control or possession of an unauthorised structure erected or set up on a highway to remove it under Section 143 of the Highways Act 1980. (ED)

F7 Powers of entry

Power to authorise in writing a person to enter land for the purpose of maintaining, altering or removing a structure or works on land under Section 291 of the Highways Act 1980. (ED)

~~**F8 Private streets**~~

~~(DELETED) Power to adopt a private street under Section 228 of the Highways Act 1980. (ED)~~

F8 Damage to the highway

Power to authorise the making of a complaint to Magistrates Court with respect to damage of a Highway consequent on exclusion of sun and wind under Section 136 of the Highways Act 1980. (ED)

F9 Licenses and consents

Power to authorise the granting of licenses to construct a bridge over the Highway under Section 176 of the Highways Act 1980. (ED)

~~(DELETED) Power to give authorise the making of an opening of a street as an entrance to a cellar or vault thereunder giving direction as to the construction of the door or covering to such opening or the provision of pavement lights and ventilators under Section 180 of the Highways Act 1980. (ED)~~

Power to authorise the issue of a notice requiring a person who has constructed a cellar under the Highway without proper authorisation to remove, alter or deal with them in such a manner as specified under Section 179 of the Highways Act 1980. (ED)

F10 Statutory undertakers' apparatus

Power to prepare and issue a notice under Section 85 of the New Roads and Street Works Act 1991 to statutory undertakers to advise of the Council's intention to undertake major works affecting statutory undertakers' apparatus.

F11 Alterations to adjoining structures and land

Power to authorise erection, and service of notices requiring repair and maintenance of stiles, gates etc. on footpaths or bridleways under Section 146, 147 and 147ZA of the Highways Act 1980.

PART G

Delegation to Principal Engineer (Highway Development Control)

All powers conferred by Part *F, C2 and C4* above together with the following powers:

G1 Alteration of highway status

Power to make an application to the Secretary of State for an order extinguishing the right to use vehicles on Highways under Section 249 of the Town and Country Planning Act 1990 where the Council has adopted a proposal for improving the amenity of the area under Section 249 of the Act 1990. (ED)

Power to make an application to the Secretary of State for an order stopping up or diversion of any highway under Section 247 of the Town and Country Planning Act 1990.

Power to authorise the making of an application on behalf of the Council for the stopping up or diversion of a Highway under Section 116 of the Highways Act 1980. (ED)

Power to sign certificates approving works carried out by agreement under Section 38 of the Highways Act 1980. (ED)

G2 Power to prepare legal agreements

Power to authorise the making or alteration of an agreement relating to the contribution to the cost of works on the Highway under Section 278 of the Highways Act 1980. (ED)

Power to authorise the making of an agreement whereby a new street becomes a Highway maintainable at public expense under Section 38 of the Highways Act 1980. (ED)

Power to authorise the making of an order under Section 124 of the Highways Act 1980 to stop up the private means of access to a publicly maintained highway. ** † (ED)

G3 Sight lines

Power to *prepare and serve* a notice requiring removal of obstructions from sight lines under Section 79 of the Highways Act 1980. (ED) (*W*)

PART H

Delegation to Principal Engineer (Network Resilience & Management)

All powers conferred in Parts C, D, E and F plus delegation G3 and J3 together with the following powers:

H1 Skips and scaffolding

Power to authorise the disposal of a builders skip under Section 140 of the Highways Act 1980 *following its removal from the highway being authorised under delegation C7.* (ED)

H2 Illegal apparatus

Power to serve notice requiring removal of unauthorised apparatus in a street and taking measures to reinstate the street under Section 51 of the New Roads and Street Works Act 1991. (ED)

H3 Traffic manager

Power to act in the role of Traffic Manager for the Authority as specified in the Network Management Duty of the Traffic Management Act 2004 under Section 17(2). (ED)

~~H4 Openings into cellars~~

~~(DELETED) In consultation with the Principal Engineer Highway Structures the power to authorise the making of an opening of a street as an entrance to a cellar or vault thereunder giving direction as the construction of the door or covering to such opening to be provided under Section 180 of the Highways Act 1980.~~

H4 Fixed penalty notices

Power to withdraw and cancel fixed penalty notices issued for offences under Part 9 of the Highways Act 1980 as set out in Schedule 22A of the Act.

H5 Regulation of the use of highways by public service vehicles

*Power to instruct the Director of Legal and Governance to make an order or orders to control which roads may or may not be used by public service vehicles or define places at which public service vehicles may stop for longer time than is necessary for taking up and setting down of passengers under Section 19 of the Road Traffic Regulation Act 1984. (ED) (W) ***

H6 Restriction on works following substantial road works

Power to issue a notice to restrict the execution of street works during a prescribed period following completion of substantial road works under Section 58 of the New Roads and Street Works Act 1991.

H7 Statutory undertakers' reinstatements

Power to authorise the immediate execution of remedial works and recover the costs of such from undertakers who fail to undertake remedial works to their reinstatements in the highway under Section 72 of the New Roads and Street Works Act 1991. (ED) (W)

PART I

Delegation to Principal Engineer (Street Lighting)

All powers conferred in Part F plus the following powers:

I1 Flagpoles

Power to erect flagpoles etc. on Highways under Section 144 of the Highways Act 1980.
(ED)

PART J

Delegation to the Principal Engineer (Highway Structures) and Group Engineer (Highway Structures)

The Group Engineer (Highway Structures) is delegated powers J1 and J2 only. The Principal Engineer (Highway Structures) shall be conferred delegated powers set out in Part F plus the following powers:

J1 Permit for trailer carrying excess weight

Power to issue a permit under Section 21 of the Road Traffic Regulation Act 1984 in respect of any trailer to carry weights specified within the permit over a bridge or road contrary to regulations made in respect of the maximum weight which may be transmitted to the road or any part of it by trailers. (ED) (W)

J2 Powers in relation to street works carried out by others

Power to authorise the Director of Legal and Governance to commence legal proceedings against a party or parties contravening highway legislation under Section 88 of the New Roads and Street Works Act 1994 by failing to take reasonable steps to protect a bridge or structure, secure access to it or provide the bridge authority reasonable facilities to monitor the execution of the works. (ED) (W)

J3 Openings into cellars

Power to authorise the making of an opening of a street as:

- an entrance to a cellar or vault thereunder; or*
- a means of admission of air or light to premises situated under, or abutting a street.*

giving direction as the construction of the door or covering to such opening to be provided under Section 180 of the Highways Act 1980. (W)

PART K

Delegation to Countryside & Rights of Way Service Manager

All powers conferred in delegation *B2, C3* (solely in relation to provisions relating to Section 149 of the Highways Act 1980), *F6 and F11* plus the following powers:

K1 Creation of public footpaths and bridleways

Power to authorise the *Director of Legal and Governance* to make a Creation Agreement for a footpath under Section 25 of the Highways Act 1980.

Power to authorise the *Director of Legal and Governance* to exercise powers of compulsory creation of a footpath under Section 26 of the Highways Act 1980. †

K2 Stopping up or diversion

Power to authorise the *Director of Legal and Governance* to make an order for the stopping up or diversion of a public footpath or bridleway under Section 257 of the Town and Country Planning Act 1990. * †

Power to authorise the services of stopping up and diversion orders for public paths under Section 257 of the Town and Country Planning Act 1990.

Power to authorise the stopping up or temporary diversion of a public footpath or bridleway to enable minerals to be works together with the restoration of the footpath line under Section 261 of the Town and Country Planning Act 1990. (ED)

Power to authorise the *Director of Legal and Governance* to make a Combined Order under Section 53(a) of the Countryside and Wildlife Act 1981 for the extinguishment or diversion of a public footpath or bridleway or restricted byway under Section 118 and 119 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990.

K3 Maintenance of footpaths and bridleways

Power to authorise the making of an order for the temporary disturbance of the surface of a footpath or bridleway under Section 135 of the Highways Act 1980.

K4 Extinguishment of footpaths and bridleways

Power to authorise the *Director of Legal and Governance* to make an order for the extinguishment or diversion of a public footpath or bridleway under Sections 118, 118(a), 118(b) , 119, 119(a) and 119(b) of the Highways Act 1980.

K5 Duty to Maintain

Power to authorise the service of a notice to require repair of stile, gate etc. under Section 146 of the Highways Act 1980. (*W*)

Power to authorise the *Director of Legal and Governance* to enter into an agreement to provide routes by permission of the landowner under Section 39(1) of the Wildlife and Countryside Act 1981. (ED) (W)

K6 Definitive map

Power to make a Modification Order based on a confirmed and operative legal event under Section 53(3)(a) of the Wildlife and Countryside Act 1981.

Power to make a Modification Order based on evidence discovered by the Authority under Section 53(3)(a), 53(3)(b) and 53(3)(c) of the Wildlife and Countryside Act 1981.

Power to make determination of applications to modify the Definitive Map under Section 53(5) of the Wildlife and Countryside Act 1981.

K7 Management agreements

Power to instruct the *Director of Legal and Governance* to prepare and enter into a Management Agreement for land for the purposes of conserving or enhancing the natural beauty or amenity under Section 39(1) of the Wildlife and Countryside Act 1981. (ED)

K8 *Disturbance of surface of certain highways*

Power to instruct the Director of Legal and Governance to commence legal proceedings against a part or parties who without lawful authority or excuse have disturbed the surface of a footpath, bridleway or highway comprising a carriageway other than a made up carriageway under Section 131A of the Highways Act 1980. (ED) (W)

PART L

Delegation to the Highways Services Manager

All powers under Parts A to K but without the restrictions imposed to those parts, together with the following powers:

L1 Alterations to adjoining structures and land

Power to grant a license in respect of construction or alteration of a building over any part of the Highway maintainable at public expense under Section 177 of the Highways Act 1980. (ED) (W)

L2 Land matters

Power to authorise in writing a person **or organisation** to enter land for the purposes of maintaining, altering, replacing or removing traffic signs under Section 71 of the Road Traffic Regulation Act 1984. (ED) (W)

Power to authorise a named officer of the Council in writing to enter land for the purposes of survey and ground investigations under Section 172 of the Housing and Planning Act 2016 where title and rights are intended to be acquired. (ED) (W)

Power to **authorise a named officer of the Council in writing to** enter land for the purpose of surveying under Section 289 of the Highways Act 1980. (ED) (W)

Power to require information as the ownership of land under Section 297 of the Highways Act 1980. ** (ED) (W)

L3 Legal agreements

Power to sign certificates for works to be carried out and carried out by agreement under Section 278 of the Highways Act 1980. (ED) (W)

Power to vary the levels of commuted sums payable in connection with works under Section 278 (3) of the Highways Act 1980. (ED) (W)

L4 Playgrounds on roads

Power to authorise the **Director of Legal and Governance** to make an order to prohibit or restrict the use of the Highway by all vehicles or vehicles of any specified class during specified periods for the purpose of creating a playground for children under Section 29 of the Road Traffic Act 1984. ** † (ED) (W)

L5 Public space protection orders

Power to authorise the **Director of Legal and Governance** to make a public space protection order for any relevant highway for the purpose of reducing anti-social behaviour under Section 59 of Anti-Social Behaviour Crime and Policing Act 2014. ** † (ED) (W)

Power to authorise the *Director of Legal and Governance* to vary or discharge a public space protection order for any relevant highway for the purpose of reducing crime or anti-social behaviour under Section 59 of Anti-Social Behaviour Crime and Policing Act 2014. **
† (ED) (W)

L6 Shared use footways

Power to authorise the *Director of Legal and Governance* to make an order for the conversion of a footway to shared use under Section 66(4) and 65(1) of the Highways Act 1980. ** (ED) (W)

L7 Agreements with neighbouring authorities

Power to authorise the *Director of Legal and Governance* to prepare an agreement or agreements with a neighbouring authority for authority in relation to construction, reconstruction, alteration, improvement or maintenance of a highway for which any party to the agreement are the Highway Authority under Section 8 of the Highways Act 1980. (ED) (W)

Power to authorise the *Director of Legal and Governance* to prepare an agreement or agreements with a neighbouring authority for the authority to take responsibility for the adjoining authority's road under Section 85 of the Highways Act 1980. (ED) (W)

Power to authorise the *Director of Legal and Governance* to prepare an agreement or agreements with the West Yorkshire Combined Authority in relation to the funding of capital construction projects. ~~associated with the West Yorkshire Transport Fund.~~

L8 Private streets

*Power to prepare a notice in relation to the Council's intention to adopt a private street following execution of works by the Council on a private street under Section 228 of the Highways Act 1980. (ED) (W) ***

Power to instruct the Director of Legal and Governance to make application to Magistrates court to overrule objections received from the owner of a private street, or the majority of owners of the street if more than one, under Section 228(1) of the Highways Act 1980. (ED)

PART M

Delegation to Assistant Director: Planning, Transportation & Highways

All powers under Part L above, together with the following powers:

M1 Property blight

Power to authorise the Director of Corporate Services to purchase properties subject to valid blight notice under suitable terms and conditions under Section 149 and Schedule 13 of the Town and Country Planning Act 1990. * † (ED) (W)

M2 Agreements with the Secretary of State

Power to enter into an agreement under Section 4 of the Highways Act 1980 with the Secretary of State for Transport in relation to works to the trunk road network carried out as a result of works on the local authority roads. (ED)

Power to enter into an agreement under Section 6 of the Highways Act 1980 with the Department for Transport in relation to works carried out to local authority roads as a result of works carried out on the trunk road network. (ED)

M3 New Roads and Street Works Act 1991

Authority to exercise all powers and duties of the Council conferred under Part 3 of the New Roads and Street Works Act 1991 (as amended) (ED)

Power to authorise Officers of the Council's Department of Place to issue Fixed Penalty Notices for offences committed under Section 95A and Schedules 4A and 4B of the New Roads and Street Works Act 1991 (as amended by Section 41 and Schedules 2 and 3 of the Traffic Management Act 2004). (ED) (W)

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