

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

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† 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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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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- (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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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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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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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.

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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)

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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.

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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)

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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.

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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.

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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)

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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.

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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)

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