

## Report of Director of Place and Engagement and Democratic Services Manager

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### **Subject: To Amend the Authority's Scheme of Delegation**

#### Purpose of Report

This report proposes minor amendments to the Authority's Scheme of Delegation in relation to Development Management. Amendments were most recently agreed in December 2022.

Amendments are proposed to provide additional clarification on some minor points which have emerged over the last two years. These include clarification on prosecution requirements relating to planning enforcement, precise processes for TPOs a desire to clarify arrangements around delegation for Habitats Regulations Assessments following a recent court decision and an attempt to streamline some processes. The streamlining proposals include only bringing items to Committee where contrary to the view of the Community Council if the recommendation is for approval and removing the requirement to bring applications from Members who have left the Authority in the last 12 months. Minor clarifications are also proposed in relation to enforcement processes and the process to designate a TPO. Further minor amendments are to improve clarity by using the precise new job titles within the department following minor reorganisation in the last year.

It is also proposed to seek the delegation of amendments to existing policies to the Authority's Management Team, where these do not change the general aims, objectives or direction of decision making, e.g. to reflect a change in working practice.

#### Background

##### ***Background to Planning Delegation***

Section 70 of the 1990 Act provides Local Planning Authorities with the power to determine an application for planning permission. Section 101 of the Local Government Act 1972 allows the local authority to arrange for the discharge of its functions, including the determination of an application for planning permission, by a committee, sub-committee or by delegation to an officer of the authority (in the National Park this is to the Chief Executive/National Park Officer).

Every Local Planning Authority has a scheme of delegation setting out the development types or other criteria of planning applications which will be determined by the relevant committee. This scheme identifies the circumstances in which applications can be determined by the Head of Service (in the case of the National Park Authority the Chief Executive) under delegated powers. These circumstances

normally relate to issues such as the type of development, the number of objections received, and who submits the application. Welsh Government guidance on Development Management matters is set out in the Development Management Manual (WG, 2017<sup>1</sup>). The manual notes that the delegation of decision-making to officers has benefits for all stakeholders in terms of simplifying procedures and freeing up committee members to concentrate on more complex cases where there are policy issues.

In determining the scope of a delegation scheme, Members must balance the benefits of transparency and the additional scrutiny brought by consideration in the Development Management Committee against the potential to save time in dealing with planning applications which can be determined without needing to wait for a committee cycle and decision.

The Development Management Manual (WG,2017) states that: *“A scheme of delegation should ensure that the right type of application is determined at the right decision level, reflecting the complexity and conformity of the proposal with planning policy. It should allow minor applications and those in conformity with the development plan, a straightforward route to determination since the LPA’s policy position is already stated in the local development plan which is in the interests of efficient and consistent decision making.”*

### ***Delegation of Amendments to Policy***

In order to facilitate the review of HR Policies, the Authority agreed, in September 2020, the delegation of amendments to HR policies to the Authority’s Management Team in respect of:

- a) New Policy required as a result of new legislation or changes to NJC terms and conditions.
- b) Existing Policy which doesn’t change the general aims, objectives or direction of decision making, e.g. to reflect a change in working practice; and
- c) NJC Terms and Conditions where no discretion exists, *e.g. annual pay remit*

A review of all Authority policies is currently being undertaken, and it is proposed to apply the same approach to delegation of non-HR policies also.

### ***Existing Delegation Scheme***

The existing scheme of delegation is attached at Appendix 1, together with tracked changes showing the amendments proposed.

### Policy considerations

None

### Financial considerations

There is the potential for applicants to request a refund of the application fee if a decision is not made within 16 weeks of validation for householder applications and 32 weeks for some other categories of applications, where no extension of time has been agreed with the applicant. Reducing the number of Committee items to those which

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<sup>1</sup> [Development management manual | GOV.WALES](#)

are more significant and appropriate for Committee consideration reduces the risk of refunds.

#### Risk considerations

The reputation of the Park Authority is a consideration in the timely management of planning application decisions.

#### Equality considerations

Where an application is delegated, comments from City/Town/Community Councils will be given proper consideration during the processing of the application and will be addressed in the delegated report.

#### Welsh Language

None

#### Conclusion

This operational change updates the Scheme of Delegation to ensure the effective delivery of the Development Management service and avoids unnecessary consideration by the Authority of minor policy amendments and updates.

#### **Recommendation:**

**That Members resolve to amend the scheme of delegation as outlined within this report and set out in full in Appendix 1.**

#### Background Documents

Appendix 1 Amended scheme of delegation  
[40/20 Human Resources Policy Development, Approval and Implementation](#)

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# PEMBROKESHIRE COAST NATIONAL PARK AUTHORITY

## DELEGATIONS TO OFFICERS



### A) GENERAL

- 1) The CE/NPO is authorised to act on behalf of the National Park Authority in relation to any matters within the service area for which he/she is responsible subject to the following overriding provision:
    - a) Any action of the CE/NPO under delegated powers shall be in accordance with:
      - i. the overall policies approved by the National Park Authority;
      - ii. Standing Orders;
      - iii. Financial Regulations.
    - b) Where the exercise of a delegated power is likely to affect another Local Authority, consultation shall take place with the relevant officer of that Authority whose service area is likely to be affected.
  - 2) Without prejudice to these delegations the CE/NPO is expected in appropriate cases to:
    - a) maintain a close liaison with the Chair of the Authority or appropriate Committee Chair (or in his/her absence the Vice Deputy-Chair) and/or;
    - ~~b) liaise with the other Committee spokesperson and/or;~~
    - c) ensure that the local Member (LA or WG) is advised of the exercise of delegated powers and/or;
    - d) ensure that the Monitoring Officer (Section 5 Local Government and Housing Act 1989) and/or Chief Financial Officer (Section 151 Local Government Act 1972) is consulted or informed.
- NB:** *Before exercising any delegated power the CE/NPO must consider whether the decision to be made is of such a nature that it ought to be referred for decision to the National Park Authority or appropriate Committee.*
- 3) Any power conferred upon the CE/NPO may be exercised by an authorised officer in his/her absence or at other times in accordance with any general directions of the CE/NPO. In the absence of the CE/NPO a second tier officer may authorise similarly the exercise of those powers.
  - 4) The CE/NPO, after consultation with the Chair in relation to commercial organisations and businesses, may approve applications to hire the Authority's premises. (NPA 20/6/01)
  - 5) The CE/NPO, following consultation with the Chair and Vice Deputy-Chair, is empowered to authorise:
    - (i) other Members to attend an approved event when the approved Member (e.g.

- the Chair or ~~Vice Deputy~~-Chair) were unavailable;
- (ii) extended representation at an approved event when deemed desirable and appropriate, and
  - (iii) appropriate Members to represent the Authority at a relevant event (in circumstances where the Authority had not had the opportunity to consider the matter).

Any action taken in respect of 5) above would be reported to the next main meeting of the Authority, and that the matter be kept under review. (NPA 8/2/99)

- 6) The Director of ~~Placemaking, Decarbonisation and Engagement~~ Tourism and Nature Recovery is authorised to respond on behalf of the Authority on future SSSI notifications, subject to a report being made to the Authority on action taken. (NPA 26/3/2003)
- 7) The CE/NPO, in consultation with the Chair, is delegated authority to approve Member representation at local launch events and other public relations opportunities as and when they arise. (NPA 16/05/07)
- 8) Confirmation of the Chief Executive's Performance Review Panel membership be delegated to the Democratic Services Manager, in consultation with the Chair of the Authority. (NPA 29/03/17)
- 9) The development, implementation and working of car park operations be delegated to the Chief Executive with targets and strategy proposals being presented to Members at least annually. (NPA 30/11/16)
- 10) Decisions relation to the Cleddau SAC Nutrient Management Board delegated to the Chief Executive Officer and Director of Place and Engagement (NPA 15/06/22)

## **B) PERSONNEL**

- 1) The CE/NPO is authorised to act in relation to the appointment, dismissal, discipline and determination of all other matters relating to the employment of staff and the conditions upon which they are employed as are specified in the ~~Personnel~~ Staff Handbook of the Authority.
- 2) The CE/NPO is authorised to recommend unpaid leave of absence of up to 3 months duration wherever the duties and responsibilities of the applicant could be easily discharged by a temporary employee. (Policy Committee 19/02/97)

**NB:** *Consultation will take place with the Employee Forum on the Human Resource Strategy and the Appeals mechanism.*

- 3) The CE/NPO is authorised, in liaison with the ~~HR~~ People Services Manager, to undertake future review and amendment of those posts designated 'politically restricted'. (Personnel Committee 12/12/07)
- 4) The Chief Executive, as Head of the Paid Service, is delegated authority by the NPA to make the following decisions:

- i) Recruitment, re-deployment, early retirement or efficiency retirement of staff with the exception of Chief Executive, Director, Section 151 Officer and Monitoring Officer;
- ii) Termination of specific areas of work, within existing service;
- iii) Any redundancy impacting on less than three members of staff (except Chief Executive, Director, Section 151 Officer and Monitoring Officer);
- iv) Any outsourcing or joint working proposal that has an impact on less than three staff, e.g. a need to transfer staff to or from another organisation;
- v) Joint working proposals not impacting on employment issues, e.g. not leading to redundancy or transfer of a member of staff;
- vi) Creation of new posts within the current budget of the Authority, which improve efficiency. *(NPA 8/12/10)*

### C) ENTRY AND INSPECTION

The CE/NPO may authorise staff to exercise such powers of entry, inspection and survey of land, buildings or premises and may issue any necessary evidence or authority as may be appropriate to the execution of their duties and in respect of which the NPA has statutory powers.

Officers of the Development Management Section [and Strategic Policy Section](#) are authorised to enter onto private or public land or premises in the execution of their duties. *(NPA 17/03/99)*

### D) PLANNING APPLICATIONS AND RELATED MATTERS *(NPA 14/12/22)*

- 1) All development management functions relating to town and country planning conferred by legislation are delegated to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the [Development Management Manager](#) (Lead officer on Development Management) and/or the [Strategic Policy Manager](#) (Lead officer on Planning Policy) *(NPA 10/08/16)* *(exceptions to this are listed under 2 (Exceptions) below):* *(NPA 15/03/06)*
- 2) Where applicants request that applications be considered by Committee to give them the opportunity to speak at Committee, these requests be refused if that is the only reason given. *(NPA 14/10/09)*
- 3) [All Habitat Regulations Assessments are delegated to the Chief Executive \(National Park Officer\), and/or the Director who has responsibility for Planning and/or the Development Management Manager \(Lead officer on Development Management\), and/or the Strategic Policy Manager \(Lead officer on Planning Policy\).](#)
- 4) [The Chief Executive \(National Park Officer\), and/or the Director who has responsibility for Planning and/or the Development Management \[Manager\]\(#\) \(Lead officer on Development Management\) and/or the \[Strategic Policy Manager\]\(#\) \(Lead officer on Planning Policy\) \*\(NPA 10/08/16\)\* be authorised to approve provisional Tree Preservation Orders \[together with one Member of the Authority\]\(#\)– the](#)

signatures of any two officers being required on such an Order. (NPA 20/09/04)

- 5) ~~The Director of Place and Engagement, the Development Management Manager, the Strategic Policy Manager and the Chief Executive (National Park Officer) Director of Place and Engagement, the Head of Development Management, the Chief Executive (National Park Officer), the Head of Legal Services~~ be designated authorised signatories of planning Decision Notices, and the Chief Executive (National Park Officer, ~~in consultation with the Chairman of the National Park Authority,~~ be authorised to delegate the signing of planning Decision Notices to a Principal Planning Officer ~~in exceptional circumstances.~~ (NPA 29/07/09)
- 6) The Chief Executive's (NPO) delegated powers may be exercised by any officer on his/her behalf in accordance with the Chief Executive's general direction.

## 7) EXCEPTIONS

The following matters have to be the subject of consideration by the Development Management Committee:

1. Any application subject to an Environmental Impact Assessment;
2. Any application meeting the statutory definition of a "major" application (outline or full); unless no objections have been received in which case it may be delegated to officers with the agreement of the Chair and ~~Vice Deputy~~ Chair of the Development Management Committee.
3. Any application that is contrary to the provisions of the Development Plan but which is to be recommended for approval;
4. Any application where there is conflict between the Development Plan policies and policies proposed in an emerging plan (where an Inspector's Report has been received) or between different levels of the Development Plan;
5. Any application (except discharge of condition or non-material amendment (NPA 10/08/16) – see above) submitted by a Member of the Authority, or a member of his/her immediate family, ~~or a Member who has left the Authority less than twelve months prior to the submission of the application~~ or in which they have a material interest;
6. Any application (except discharge of condition – or non-material amendment (NPA 10/08/16) see above) submitted by, or in which an officer employed either within the Planning Department or as a manager or senior manager by the Authority has an interest;
7. Any application (except discharge of condition – or non-material amendment (NPA 10/08/16) see above) where the owner of the land is a Member or an officer of the Authority as declared on the ownership certificate accompanying the application;
8. Any application that is to be ~~determined approved~~ contrary to the view expressed by the Community Council, where that view is a material planning consideration, unless delegated to officers with the agreement of the Chair and ~~Vice Deputy~~ Chair of the Development Management Committee<sup>1</sup>. The only

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<sup>1</sup> Usual custom and practice is to circulate these applications to all Members for ~~discussion~~ consideration, prior to a decision being taken by the Chair and Deputy Chair of the Committee.



reason for bringing an item to Committee in these circumstances should be based on a material planning consideration. The comment '~~support~~object' or 'object as it is retrospective' would not be judged a sufficient reason to bring an item to Committee if the officer recommendation was contrary. (*Caveat amended by NPA 14/10/09*);

9. Any application that is to be recommended for approval contrary to the advice of a Statutory Consultee;
10. Any application which the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Development Management Manager (Lead officer on Development Management) and/or the Strategic Policy Manager (Lead officer on Planning Policy) (*NPA 10/08/16*) decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial. Justification for this approach to be recorded on the file;
11. Any application made by or on behalf of the Authority or an application in which the Authority has a financial interest as landowner;
12. Any application that a Member requests be brought before the full Committee. Members wishing to take advantage of this provision are to advise the Democratic Services Manager officer in writing using the appropriate form within 21 days from the receipt of a valid application, giving the reasons why they would like the matter considered by the Committee. (*Criterion added NPA 14/10/09 and amended NPA 07/12/11*)
13. Any modification to a S.106 agreement which would vary a recommendation previously approved by the Development Management Committee if recommended for approval.
14. Responses to the statement for community consultation for Nationally Significant Infrastructure Projects.
15. Local Impact Reports for Developments of National Significance and Significant Infrastructure Projects.

## 8) ENFORCEMENT

*Part 5 of this scheme of delegation relates to the taking or not of enforcement action, breach of condition action, action under Section 215 of the Town and Country Planning Act, action in respect of unauthorised advertisements, etc.*

The delegation for taking action is given to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Development Management Manager (Lead officer on Development Management), Principal Planning Officer (Development Management) and/or the Strategic Policy Manager (*Lead officer on Planning Policy*) (*NPA 10/08/16*)

- a) Consideration of the need to serve the following are delegated to the Chief Executive (National Park Officer), ~~in the absence of~~ the Director who has responsibility for Planning and/or the ~~the~~ Development Management Manager (Lead officer on Development Management), Principal Planning Officer (Development Management) and/or the Strategic Policy Manager (Lead officer on Planning Policy) (*NPA 10/08/16*):

- Planning Contravention Notices (Principal Planning Officers also authorised to sign, subject to no officer signing PCNs which relate to cases on which they are the case officer) (NPA 01/02/12);
  - Breach of Condition Notices;
  - Enforcement Notices;
  - Listed Building Enforcement Notices;
  - Temporary Stop Notices
  - Stop Notices;
  - Injunctions;
  - Institute Prosecutions or other legal proceedings.
- b) The decision to undertake direct action in relation to non compliance with an Enforcement Notice is delegated to the to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the Development Management Manager (Lead officer on Development Management) and / or the Strategic Policy Manager (Lead officer on Planning Policy) in consultation with the Chair or Deputy Chair of the Development Management Committee.
- c) Every enforcement case is delegated unless (NPA 01/02/12):
- i. There is a breach of planning control and the case is contrary to the provisions of the Development Plan but it is recommended that enforcement action should not be taken (this would not include cases that are lawful by virtue of the passage of time or are of such a minor nature that it is not expedient to take action);
  - ii. There is a breach of planning control and the case complies with the provisions of the Development Plan but it is recommended that enforcement action should be taken;
  - ~~iii.~~—The case relates to a Member of the Authority, ~~or a Member of his /her immediate family or a Member who has left the Authority less than twelve months prior to the commencement of the investigation;~~
  - ~~iv.~~iii. The case relates to a site in which an officer employed by the Authority has an interest;
  - ~~v.~~iv. The case is one which the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the ~~the~~ Development Management Manager (Lead officer on Development Management) and/or the Strategic Policy Manager (Lead officer on Planning Policy) (NPA 10/08/16) or the Authority's Solicitor/Legal advisor decides should be referred to Committee because it raises matters of significant public and/or Member interest or where the matter is considered to be contentious or controversial or which could have financial implications for the Authority. Justification for this approach is to be recorded on the file;
  - ~~vi.~~v. The case relates to land in which the Authority has an interest or has a financial interest as landowner;
  - ~~vii.~~vi. Any Member may ask for a particular case to be brought before the Committee by writing to the Development Management Manager and giving full reasons which should be based on planning grounds;

~~viii. Prosecution action is required— unless in relation to a breach of the advertisement regulations or in relation to works to a listed building which are criminal offences and often require immediate action as a result.~~

ix.vii. In the event of a planning appeal upholding any authorised enforcement action to be taken by the Authority, any deviation from the identified steps set out to ensure compliance, that have been upheld on appeal, should only be agreed and authorised by the Development Management Committee, whether that be through its determination of a subsequent planning application(s) and/or otherwise, and not under delegated authority

~~*PThis scheme of delegation relates to the taking or not of enforcement action, breach of condition action, action under Section 215 of the Town and Country Planning Act, action in respect of unauthorised advertisements, etc.*~~

~~*The delegation for taking action is given to the Chief Executive (National Park Officer), and/or the Director who has responsibility for Planning and/or the the Development Management Manager (Lead officer on Development Management), Principal Planning Officer (Development Management) and/or the Strategic Policy Manager (Lead officer on Planning Policy) (NPA 10/08/16) and the two Principal Planning Officers. The Authority's Legal Advisor will also be required to check all enforcement notices.*~~

~~*The delegation for serving a Stop Notice is given to the Chief Executive or Director of Placemaking, Decarbonisation and Engagement in consultation with the Chair or Deputy Chair of the Development Management Committee.*~~

**E) DELEGATION IN RESPECT OF CONSULTATIONS IN RESPECT OF THE NEW LICENSING REGIME** (NPA 30/3/05; confirmed NPA 15/03/06)

- (a) That in cases where no objection was to be made to the extension of an existing, or introduction of a new, licence that the Development Management Manager (or in his/her absence the Director of Placemaking, Decarbonisation and Engagement) be authorised to advise the County Council of the National Park Authority's views;
- (b) That in cases where objection was to be made to the extension of an existing, or introduction of a new, licence that the Development Management Manager (or in his/her absence the Director of Placemaking, Decarbonisation and Engagement) in consultation with the Chief Executive and the Chair or Deputy Chair of the Development Management Committee, be authorised to advise the County Council of the Authority's views;
- (c) That in cases where the National Park Authority was being asked to defend its view to either the Licensing Sub Committee or full Committee of the County Council, the Development Management Manager (or in his/her absence an appropriate officer of the Authority as determined by the Chief Executive) should be authorised to attend the relevant Committee and give those views.

**F) ACCESS AND RIGHTS OF WAY**

- (a) The Chief Executive (National Park Officer) be authorised to make and confirm

Public Path Diversion Orders (S119 Highways Act & S257 TCPAct 1990) which have received no objection during the preliminary round of consultations. (NPA 16/06/97)

- (b) The Chief Executive (National Park Officer), in consultation with the Chair and any relevant Local Member, be delegated the power to authorise the making of Public Path Creation Agreements under Section 25 of the Highways Act 1980, and that a list of all completed Creation Agreements be produced for Members' information on an annual basis. (Policy 16/02/00)
- (c) The Chief Executive (National Park Officer) to authorise individual members of staff to make Public Path Creation Orders under Section 26 of the Highways Act 1980; Public Path Extinguishment Orders under Section 118 of the Highways Act 1980 and exercise powers of entry to land under Section 293 of the Highways Act 1980. (NPA 28/03/18)
- (d) The Chief Executive (National Park Officer) and Directors are authorised to exercise enforcement powers for the purposes of public rights of way maintenance (in accord with the functions, powers and duties contained in the existing Public Rights of Way Delegation Agreement with Pembrokeshire County Council) (NPA 07/08/13).
- (e) The Chief Executive (National Park Officer) or Head of Service be delegated responsibility to enter into any agreements under Section 35 of the CROW Act to improve access. (NPA 24/11/04)
- (f) The Chief Executive (National Park Officer) or Head of Service be delegated the responsibility to determine all applications and issue directions under Sections 24, 25 and 26 of the CROW Act. (NPA 24/11/04)

**G) POLICY**

5) The NPA is responsible for the approval of all HR strategy and policy documents prior to their implementation. However, delegation has been granted in accordance with the below matrix\_:

Type of document	Human Resources People Services Committee	Employee Forum	NPA	Management Team
Existing <u>Corporate</u> Policy - which <u>doesn't</u> change the general aims, objectives or direction of decision making, e.g. to reflect a change in working practice.				<u>Approval</u>
<u>Procedures</u> — <u>that define how a policies (already approved by NPA or other delegated</u>				<u>Approval</u>

<u>Committee) are implemented.</u>				
<u>Guidelines</u> — <u>which provide advice to staff and managers alike and are advisory in nature only.</u>				<u>Approval</u>
<u>New Policy</u> — <u>resulting in contractual change not driven by legislation or collective bargaining.</u>	<u>Consulted</u>	<u>Consulted</u>	<u>Approval</u>	<u>Consulted</u>
New <u>HR*</u> Policy - required as a result of new legislation or changes to NJC terms and conditions.	Informed	Informed		Approval
Existing <u>HR*</u> Policy - which changes the general aims and objectives and direction of decision making.	Approval	Consulted		Consulted
NJC Terms and Conditions - with a potential impact on resources (financial or otherwise), where the Authority has discretion on implementing.	Approval	Consulted		Consulted
NJC Terms and Conditions - where no discretion exists, <i>e.g. annual pay remit.</i>				Approval
<u>Guidelines</u> — <u>which provide advice to staff and managers alike and are advisory in nature only.</u>				<u>Approval</u>

\* HR policies are defined as those related to employment, recruitment and terms and

| conditions

| ~~Any HR policy change approved by delegation to Officers of the Authority, will be reported to the next available People Services Human Resources Committee meeting.~~  
(NPA 30/09/20)

| Date of last revision: ~~December 2022~~October 2024