

Officer Delegation Scheme – Proposed Changes

Appendix B

No.1

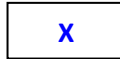
	Section and Reference	Existing Text (as contained in Version 11 of the scheme)	Proposed amendment including revised text if appropriate
1.	CI – NEW DELEGATED POWER (To slot in after current CI172).		Approval to the grant of an appropriate rent free period in circumstances where a tenant undertakes repair works to premises with the agreement of the Council and where the repair works are the Council’s obligation under the terms of the letting.
		Reason for proposed change: New Delegated Power.	
	Implications of proposed change: <ul style="list-style-type: none"> • Finance and other resource implications: Agreeing a rent free period may have financial implications for the Council and these will be detailed in individual reports. • Legal implications: There are no legal implications arising specifically from this proposal. • Consultation/Engagement undertaken (internal and external): Not applicable. • Human Rights implications: There are no direct human rights implications for this proposed change. • Equalities and Diversity implications: There are no equalities and diversity implications arising specifically from this proposal. • Risk Management implications: There are no risk management implications arising specifically from this proposal. • Crime and Disorder implications: There are no crime and disorder implications arising specifically from this proposal. 		

- **Environment and Sustainability implications:** There are no environment and sustainability implications arising specifically from this proposal.

Proposed by: Niall Cathie
Service Area: Property Asset Manager
Contact Tel. No: 643 6517

Head of Service sign-off:


(please insert a cross in the box)



Officer Delegation Scheme – Proposed Changes

No.2

	Section and Reference	Existing Text (as contained in Version 11 of the scheme)	Proposed amendment including revised text if appropriate
2.	CI172	Approval to the letting of any property from the Authority at a rent of not less than the open market rental or capital value or to the Authority at a rent not greater than the open market rental or capital value.	Approval to the letting of any property from the Authority at a rent of not less than the open market rental or capital value or to the Authority at a rent not greater than the open market rental or capital value <u>and to agree appropriate rent free periods where applicable.</u>
		Reason for proposed change: Amendment of Wording.	
	Implications of proposed change: <ul style="list-style-type: none"> • Finance and other resource implications: Agreeing a rent free period may have financial implications for the Council and these will be detailed in individual reports. • Legal implications: There are no legal implications arising specifically from this proposal. • Consultation/Engagement undertaken (internal and external): Not applicable. • Human Rights implications: There are no direct human rights implications for this proposed change. • Equalities and Diversity implications: There are no equalities and diversity implications arising specifically from this proposal. • Risk Management implications: There are no risk management implications arising specifically from this proposal. • Crime and Disorder implications: There are no crime and disorder implications arising specifically from this proposal. • Environment and Sustainability implications: There are no environment and sustainability implications arising specifically from this proposal. 		

	Proposed by: Niall Cathie Service Area: Property Asset Manager Contact Tel. No: 643 6517
	Head of Service sign-off: (please insert a cross in the box) <input data-bbox="804 331 922 391" type="checkbox"/> 

Officer Delegation Scheme – Proposed Changes

No.3

	Section and Reference	Existing Text (as contained in Version 11: September 2015 of the scheme)	Proposed amendment including revised text if appropriate
3.	<p>Part 15 Head of Environment, Housing and Leisure</p> <p>EL199 - Planning Applications Exceptions</p>	<p>Determine applications, notifications, consultations, discharge of conditions, screening and scoping requests, enforcement and all other matters within the terms of the Planning Committee (please see Part 3.5 of the Constitution) and in respect of High Hedge complaints under Part 8 of the Anti-Social Behaviour Act 2003, subject to the exceptions specified below:</p> <p><i>[Full delegation copied in full below on p4]</i></p>	<p>NEW exception to be added between d) & e) to read:</p> <p>Applications for extensions to or change of use to gambling establishments (including amusement arcades, betting shops and casinos)</p> <p><i>[Full delegation copied in full below on p4]</i></p>
		<p>Reason for proposed change:</p> <p>When considering the initial proposals for the Statement of Licensing Policy (Gambling) 2016 at its meeting on 1 June 2015, the Overview, Scrutiny and Policy Development Committee requested that the possibility of ensuring all applications for gambling establishments were submitted to Planning Committee for determination and not delegated to officers be examined.</p> <p>This can be done by amending the Planning Applications Exceptions delegation (which lists which applications must be determined by the Planning Committee) to specifically refer to applications for gambling establishments. The proposed wording is set out above.</p> <p>The material planning considerations to be taken into account in the determination of the application would be the same regardless of whether the decision was taken by Planning Committee or by officers under the Officer Delegation Scheme.</p> <p>Currently under Planning Exceptions i), j) and k), applications which would normally be taken under delegated powers by officers can be promoted to a Committee decision. These procedures would remain in place regardless of whether the new exception was added or not.</p> <p>If the amendment was not added most applications relating to changes of use or extensions to</p>	

gambling establishments would be taken under delegated powers by officers, unless requested by members to be a committee decision.

Casinos are included in the proposed delegation even though North Tyneside Council does not have the authority from the Secretary of State to issue Casino Premises Licences. The Licensing regime is separate to the planning processes and an application could be received to build a casino even though the building would not be able to operate as a casino until the appropriate license was obtained. Section 175 of the Gambling Act 2005 limits the overall numbers of types of casinos that will be permitted in the UK and, until such time as the current limit on the number of casinos is increased, no further Casino Premises Licences will be issued.

Implications of proposed change:

- **Finance and other resource implications:**

The processes to be undertaken to determine an application are the same for a committee or an officer decision; a committee decision may take longer due to the requirements of publication in advance of a meeting and will have resource implications for the time taken at committee and in preparation for committee. It is anticipated that any additional costs arising can be met within the existing Democratic Services and Planning Service budgets. However, the most recent applications relating to betting shops have all been committee decisions because of either granted speaking requests or Members requesting it.

- **Legal implications:**

Many functions of the Council can be delegated to officers or to an appropriate committee. The majority of the authority's functions in relation to planning applications are delegated to officers with Planning Committee retaining the right to request a decision which would normally be taken under delegated powers to be determined by the committee instead. Some particular types of application are reserved for the Planning Committee ('Planning Applications Exceptions') and it is open to the Council to amend the types of applications which are on this list bearing in mind the need for good corporate governance. All decisions on planning applications must be determined in the interests of the whole community of North Tyneside and on their respective planning merits.

- **Consultation/Engagement undertaken (internal and external):**

The suggestion to examine this change to the planning applications exceptions list was suggested by Overview, Scrutiny and Policy Development Committee at its meeting on 1 June 2015.

Councillor J Harrison, as the appropriate Cabinet Member, has been consulted and is happy to keep the exceptions as they currently appear as there are processes which allow for specific applications to be submitted to committee if

required.

The Chair of Planning Committee, Councillor T Mulvenna, and Deputy Chair, Councillor F Lott, have been consulted and consider that the present system seems to work well. Members can bring forward applications for a committee decision which they or the community feel have evidenced based concerns which may affect the community.

- **Human Rights implications:**

There are no direct human rights implications for this proposed change to the planning applications exceptions list.

- **Equalities and Diversity implications:**

There are no direct equalities and diversity implications for this proposed change to the planning applications exceptions list.

- **Risk Management implications:**

All decisions relating to planning applications can be challenged through the Judicial Review process and if refused can be appealed by the applicant to the Planning Inspectorate. As long as each decision in relation to any application for a gambling establishment was made on material planning considerations and with an evidence base to support the reason for refusal or approval the level of decision maker (officer or committee) would make no difference to the level of risk associated with such decisions.

- **Crime and Disorder implications:**

There are no direct crime and disorder implications for this proposed change to the planning applications exceptions list.

- **Environment and Sustainability implications:**

There is a presumption in favour of sustainable development (economic, social and environmental) in the National Planning Policy Framework and it must be considered for all planning applications.

Proposed by: Overview, Scrutiny and Policy Development Committee

Service Area:

Contact Tel. No:

Head of Service sign-off:

(please insert a cross in the box)

Planning Applications Exceptions

Determine applications, notifications, consultations, discharge of conditions, screening and scoping requests, enforcement and all other matters within the terms of the Planning Committee (please see Part 3.5 of the Constitution) and in respect of High Hedge complaints under Part 8 of the Anti-Social Behaviour Act 2003, subject to the exceptions specified below:

- a) Applications (other than those for the discharge and variation of conditions and extensions of time not including the discharge of reserved matters) for major development as defined for the purposes of the government PS2 statistical return i.e.:
 - residential development of 10 or more dwellings or, where numbers not specified, the site area is more than 0.5 hectares;
 - other development where the floor space is 1000 sq metres or more or the site is 1 hectare or more; and
 - where a major development is subject to a change of use, it will be classed as a major development and not as a change of use.

- b) Mineral applications (other than those for the discharge of conditions) as defined for the purposes of the government PS2 statistical returns.

- c) Applications which are a departure from the Development Plan and which would need to be notified to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009 (or any Direction replacing or re-enacting this Direction) if the Authority was minded to grant permission for them.

d) Applications which are subject to an objection from a statutory consultee (as defined in Article 10 of the Town and Country Planning (Development Management Procedure) Order 2010 (or any Order replacing or re-enacting this Order) which has not been resolved by negotiation or the imposition of conditions.

e) Applications which are for a gambling establishment (including amusement arcades, betting shops and casinos).

f) Applications (other than those for PS2 defined minor and other development or the discharge of conditions) submitted by or on behalf of the Authority for its own development which are the subject of objections which have not been resolved by negotiation or the imposition of conditions.

g) Applications submitted by or on behalf of a North Tyneside Councillor or their spouse/partner.

h) Applications submitted by or on behalf of any member of staff of the Planning Team or any Head of Service or their spouse/partner or any member of staff directly involved in the progressing/determination of any application.

i) Applications classified as major or minor developments (as defined for the purposes of the government PS2 statistical return) where a Councillor, applicant or other person with a material planning interest has, within the statutory publicity period or prior to the determination of the application, requested in writing that the application be determined by Planning Committee and has also given substantial reasons why the application should be determined by Planning Committee and not under the Officer Delegation Scheme.

- j) Applications for other developments (including householder developments, as defined for the purposes of the government PS2 statistical return) where a Councillor has, within the statutory publicity period or prior to the determination of the application, requested in writing that the application be determined by Planning Committee and has also given substantial reasons why that application should be determined by Planning Committee and not under the Officer Delegation Scheme.

- k) Applications where written representations for and/or against a development proposal have been made and speaking rights have been requested and granted in accordance with the scheme for speaking at Planning Committee.

- l) Applications that the delegated officer considers should be determined by Planning Committee, having regard to approved guidance on this matter.

This delegation can be undertaken by any post designated by the Head of Environment and Leisure, subject to that post being held by a member of the Royal Town Planning Institute of Planning Officer status or above and being senior to the specific case officer except where the delegation being exercised is for the discharge of planning conditions other than for the discharge of reserved matters.

Officer Delegation Scheme – Proposed Changes

No. 4

	Section and Reference	Existing Text	Proposed amendment including revised text if appropriate
4.	EHL200	<p>To issue fixed penalty notices, penalty charge notices and fixed monetary penalties for all offences under the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005, Dog Byelaws, The Dogs (Fouling of Land) Act 1996, Anti-Social Behaviour Act 2003, Control of Pollution (Amendment) Act 1989, Refuse Disposal (Amenity) Act 1978, Noise Act 1996 and Housing Act 2004 and any amendments under those Orders.</p>	<p>To issue penalty and fixed penalty notices, penalty charge notices and fixed monetary penalties for all offences under the Environmental Protection Act 1990, Clean Neighbourhoods and Environment Act 2005, Dog Byelaws, The Dogs (Fouling of Land) Act 1996, Anti-Social Behaviour Act 2003, Control of Pollution (Amendment) Act 1989, Refuse Disposal (Amenity) Act 1978, Noise Act 1996 and Housing Act 2004 <u>and the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 made under the Energy Act 2013</u> and any amendments under those orders.</p>
		<p>Reason for proposed change: Section 150(1) to (6) and (10) of the Energy Act 2013(a) and paragraph 3(a) of Schedule 4 to the Housing Act 2004(b) lead to the introduction of the smoke and carbon monoxide alarm (England) Regulations 2015. The Authority has a mandatory obligation by section 5 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 to serve remedial notices on landlords to ensure adequate protection for tenants against smoke and carbon monoxide. The regulations require the local authority to carry out remedial action if notice is breached.</p> <p>The statement of principle enables a penalty notice to be served on the landlord when a breach of the remedial notice occurs.</p>	

Implications of proposed change:

- **Finance and other resource implications:** The costs of implementing the regulations in terms of officer time can be met from existing budget.

The Regulations stipulate that Penalty Charges can only be served where a Statement of Principles has been agreed and published. The amount of Penalty charges can only be served where a Statement of Principles has been agreed and published. The amount of Penalty Charge will be set at a level to cover all costs.

- **Legal implications:** To ensure compliance with legal obligation
- **Consultation/Engagement undertaken (internal and external):** Prior to service of penalty notices the statement of principle will be published on website and agreed by full council
- **Human Rights implications:** There are no direct human rights implications for this proposed change
- **Equalities and Diversity implications:** this has been considered and the legislation is to ensure uniformity of safety standards
- **Risk Management implications:** There are no direct risk management implications for this proposed change
- **Crime and Disorder implications:** There are no direct crime and disorder implications for this proposed change
- **Environment and Sustainability implications:** It will ensure the improved stability of housing stock.

Proposed by: Frances McClen
Service Area:Environmental Health
Contact Tel. No:643 6640

Head of Service sign-off:
(please insert a cross in the box)

X



Officer Delegation Scheme – Proposed Changes

No.5

	Section and Reference	Existing Text (as contained in Version 11 of the scheme)	Proposed amendment including revised text if appropriate
5.	EHL216	<p>To manage the use and enforcement of on and off street parking, waiting and loading restrictions, bus lane enforcement and other items under the Traffic Management Act 2004, the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of North Tyneside) Order 2007, the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007, the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, the Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007, the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) 2007 and the Bus Lane Contraventions (Approved Local Authorities) England (Amendment) (No 3) Order 2007 and any subsequent amending legislation or further legislation regarding parking contraventions.</p>	<p>To manage the use and enforcement of on and off street parking, waiting and loading restrictions, bus lane enforcement and other items under the Traffic Management Act 2004, the Road Traffic (Permitted Parking Area and Special Parking Area) (Metropolitan Borough of North Tyneside) Order 2007, the Civil Enforcement of Parking Contraventions (Approved Devices) (England) Order 2007, the Civil Enforcement of Parking Contraventions (England) General Regulations 2007, the Civil Enforcement of Parking Contraventions (England) Representations and Appeals Regulations 2007, the Civil Enforcement Officers (Wearing of Uniforms) (England) Regulations 2007, the Civil Enforcement of Parking Contraventions (Guidelines on Levels of Charges) (England) 2007 and the Bus Lane Contraventions (Approved Local Authorities) England (Amendment) (No 3) Order 2007, <u>the 2015 Deregulation Bill</u> and any subsequent amending legislation or further legislation regarding parking contraventions.</p>

Reason for proposed change:
Clarification of delegated power.

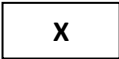
Implications of proposed change:

- **Finance and other resource implications:** There are no financial implications arising specifically from this proposal.
- **Legal implications:** There are no legal implications arising specifically from this proposal.
- **Consultation/Engagement undertaken (internal and external):** Not applicable.
- **Human Rights implications:** There are no human rights implications arising specifically from this proposal.
- **Equalities and Diversity implications:** There are no equalities and diversity implications arising specifically from this proposal.
- **Risk Management implications:** There are no risk management implications arising specifically from this proposal.
- **Crime and Disorder implications:** There are no crime and disorder implications arising specifically from this proposal.
- **Environment and Sustainability implications:** There are no environment and sustainability implications arising specifically from this proposal.

Proposed by: Andrew Flynn
Service Area: Integrated Transport Manager
Contact Tel. No: 643 6083

Head of Service sign-off:

(please insert a cross in the box)



Officer Delegation Scheme – Proposed Changes

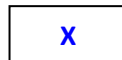
No.6

	Section and Reference	Existing Text (as contained in Version 11 of the scheme)	Proposed amendment including revised text if appropriate
6.	EHL225	t) In consultation with the Head of Legal and Democratic Services to deal with all matters in relation to any proposal to close or divert highways, footpaths and bridleways in accordance with sections 116, 117, 118 and 119.	t) In consultation with the Head of Legal and Democratic Services to deal with all matters in relation to any proposal to close or divert highways, footpaths and bridleways in accordance with sections 116, 117, 118, and 119 <u>and Section 25 & 26 (creating footpaths bridleways and restricted byways).</u>
		<p>Reason for proposed change:</p> <p>Clarification of delegated power.</p>	
<p>Implications of proposed change:</p> <ul style="list-style-type: none"> • Finance and other resource implications: There are no financial implications arising specifically from this proposal. • Legal implications: There are no legal implications arising specifically from this proposal. • Consultation/Engagement undertaken (internal and external): Not applicable. • Human Rights implications: There are no human rights implications arising specifically from this proposal. 			

- **Equalities and Diversity implications:** There are no equalities and diversity implications arising specifically from this proposal.
- **Risk Management implications:** There are no risk management implications arising specifically from this proposal.
- **Crime and Disorder implications:** There are no crime and disorder implications arising specifically from this proposal.
- **Environment and Sustainability implications:** There are no environment and sustainability implications arising specifically from this proposal.

Proposed by: Andrew Flynn
Service Area: Integrated Transport Manager
Contact Tel. No: 643 6083

Head of Service sign-off:
(please insert a cross in the box)



Officer Delegation Scheme – Proposed Changes

No.7

	Section and Reference	Existing Text (as contained in Version 11 of the scheme)	Proposed amendment including revised text if appropriate
7.	HECS3	With the appropriate officials to determine the provision of adaptations under section 2 of the Chronically Sick and Disabled Persons Act 1970, where expenditure on a service does not exceed £12,000	With the appropriate officials to determine the provision of adaptations under section 2 of the Chronically Sick and Disabled Persons Act 1970, where expenditure on a service does not exceed £30,000 .
		<p>Reason for proposed change: The threshold level has not been changed for a number of years and the proposal is to increase the level of expenditure to reflect current costs for providing adaptations</p>	
<p>Implications of proposed change:</p> <ul style="list-style-type: none"> <p>• Finance and other resource implications: There are no financial implications arising specifically from the proposed amendment. The Council has a legal duty to provide adaptations to disabled people under section 2 of the Chronically Sick and Disabled Persons Act 1970, following an assessment of need. The proposed amendment to the existing delegation is to reflect current costs for providing adaptations. Expenditure against budget will continue to be managed through regular budget monitoring</p> <p>• Legal implications: The Council has a general duty to assess for community care services under the National Health Service and Community Care Act (1990) section 47. Once an assessment of need has been undertaken section 47(1) (b) obliges the authority to ‘have regard to’ the results of the assessment and provides for a statutory duty to provide services to meet those presenting needs. Where such assessment requires the provision of adaptations to the home of a disabled person, these are provided under the provisions contained within section 2 of the Chronically Sick and Disabled Persons Act 1970.</p> 			

- **Consultation/Engagement undertaken (internal and external):**

Internal Consultation

Internal consultation with Adaptations and Loan Equipment Service, Service Manager and HECS

- **Human Rights implications:**

There are no human rights issues arising from this proposed amendment

- **Equalities and Diversity implications:**

There are no equality or diversity issues arising from this proposed amendment

- **Risk Management implications:**

The proposed amendment reflects current costs for providing adaptations and is supplemented by a clear business process.

Expenditure will be managed within budget, using regular budget monitoring

- **Crime and Disorder implications:**

There are no crime and disorder issues directly arising from this proposed amendment

- **Environment and Sustainability implications:**

There are no environment and sustainability issues directly arising from this proposed amendment

Proposed by: Eleanor Binks

Service Area: Adult Social Care

Contact Tel. No: 6437076

Head of Service sign-off:

(please insert a cross in the box)

X

Officer Delegation Scheme – Proposed Changes

No.8

	Section and Reference	Existing Text (as contained in Version 11 of the scheme)	Proposed amendment including revised text if appropriate
8.	Head of Health, Education, Care and Safeguarding	<p>New – these items currently appear in the terms of reference of the Outside Bodies Committee – see separate proposal no. 2 under Constitution – Proposed Changes (deletion of Outside Bodies Committee).</p>	<p>In consultation with the Cabinet Member for Children, Young People and Learning, to:</p> <ol style="list-style-type: none"> 1. To appoint, re-appoint or remove the Authority’s representatives on school governing bodies. 2. To appoint, reappoint or remove the Authority’s representatives on Pupil Referral Unit management committees.
		<p>Reason for proposed change:</p> <p>By rationalising the Committee structure, savings could be made by the Law and Governance service as agreed during the Financial Planning and Budget process for 2016/17.</p>	
	<p>Implications of proposed change:</p> <ul style="list-style-type: none"> • Finance and other resource implications: These proposals, together with other proposals to rationalise the committee structure, would enable savings to be made by the Law and Governance service as agreed as part of the Financial Planning and Budget process for 2016/17. • Legal implications: There are no legal implications arising directly from these proposals. 		

- **Consultation/Engagement undertaken (internal and external):**
Consultation on the proposals was undertaken as part of the budget setting process.
- **Human Rights implications:**
There are no human rights implications arising directly from these proposals.
- **Equalities and Diversity implications:**
There are no equalities and diversity implications arising directly from these proposals.
- **Risk Management implications:**
There are no risk management implications arising directly from these proposals.
- **Crime and Disorder implications:**
There are no crime and disorder implications arising directly from these proposals.
- **Environment and Sustainability implications:**
There are no environment and sustainability implications arising directly from these proposals.

Proposed by: Dave Brown
Service Area: Law and Governance
Contact Tel. No: 6435358

Head of Service sign-off:
 (please insert a cross in the box)

x