

Broads Authority

24 January 2025

Agenda item number 16

Scheme of powers delegated to Chief Executive and other authorised officers

Report by Senior Governance Officer

Purpose

To consider and agree proposed changes to the Scheme of powers delegated to the Chief Executive and other authorised officers and corresponding changes to the Terms of Reference for the Planning Committee.

Recommended decision

To adopt the revised Scheme of powers delegated to the Chief Executive and other authorised officers together with revised Terms of Reference for the Planning Committee.

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1. Introduction

- 1.1. The Scheme of powers delegated to the Chief Executive and other authorised officers, commonly referred to as the Scheme of Delegation (SoD), is an important part of the Authority's constitutional documents. The purpose of the SoD is to ensure that officers

have the powers to make decisions and take appropriate action in a timely and efficient manner within the adopted guidelines.

- 1.2. The SoD was last adopted by Members in September 2023. Exercising his delegated power under section 5.10 of the SoD, the Chief Executive made a very minor change In September 2024 to reflect the change in the job title of Senior Planning Officer to Development Manager. There have been no other changes.
- 1.3. A number of changes are now required to the adopted SoD to either reflect revised powers, introduce new powers or clarify the existing wording affecting a number of sections. For brevity, it was considered beneficial to incorporate all of the proposed changes into one report.
- 1.4. The proposed revisions are set out in detail in the following sections. Those elements which relate to the planning function were presented to the Planning Committee meetings on 6 December 2024 and 10 January 2025.

2. Enforcement powers

- 2.1. At its meeting on 6 December, the Planning Committee considered a [report](#) on the implications of the Levelling Up and Regeneration Act on the Local Enforcement Plan. The agreed changes to the Plan will require corresponding revisions to the SoD to reflect the new types of notices. In addition, it is proposed to add the Development Manager to the list of authorised officers.
- 2.2. Below is an extract from the SoD with the proposed changes (in **bold** text):

Powers delegated to Chief Executive	Other authorised officers
(47) To serve Breach of Condition Notices, Planning Contravention Notices, Section 330 Notices and Section 215 Notices.	Director of Strategic Services or Head of Planning, Development Manager or Planning Officer (Compliance and Implementation)
(48) In cases of urgency and subject to consultation (if possible) with the Chair, or in the absence of the Chair the Vice-Chair, of the Planning Committee: (i) to serve Building Preservation Notices; (ii) to issue Listed Building Enforcement Notices, Listed Building Temporary Stop Notices and Conservation Area Enforcement Notices;	Director of Strategic Services, or: in respect of (i) and (ii), Historic Environment Manager, Head of Planning or Development Manager ; in respect of (iii) and (iv), Head of Planning or Development Manager

Powers delegated to Chief Executive	Other authorised officers
(iii) to issue Enforcement Warning Notices , Enforcement Notices, Stop Notices and Temporary Stop Notices; (iv) to take enforcement action in respect of unauthorised advertisements.	

3. Neighbourhood Planning approval process

3.1. At its meeting on 10 December, the Planning Committee considered a [report](#) on amending the approval process for Neighbourhood Planning. The purpose of the proposed changes is to streamline the decision making by the Broads Authority, but still ensure adequate and robust oversight of the process. The proposed changes will require an amendment to the SoD together with the Terms of Reference for the Planning Committee.

3.2. The proposed additions are set out below:

Powers delegated to Chief Executive	Other authorised officers
(65) To (i) agree a Neighbourhood Area; (ii) approve a Neighbourhood Plan for consultation under Regulation 16 and (iii) approve a Neighbourhood Plan to go to referendum.	Director of Strategic Services or Head of Planning

3.3. The Terms of Reference for the Planning Committee at section 2(8) currently state:

To consider and confirm Neighbourhood Area Plans and the designation of “neighbourhood areas” and to make recommendations to the Authority for their adoption.

3.4. It is proposed that this be amended to:

“To recommend to the Authority the making/adoption of Neighbourhood Plans.”

4. Signing of Section 106 Agreements (not related to planning applications)

4.1. There is currently no provision within the SoD for an officer to sign a Section 106 Agreement which means that they are required to be brought before Members for signing. S106 Agreements related to planning applications are dealt with through the

Planning Committee and section 38 of the SoD and this will not be affected by the following proposal.

4.2. As Members will have seen from the previous agenda item (no. 15 relating to Langley Abbey), a legal agreement is required for the provision of off-site credits under the Biodiversity Net Gain scheme. In order to not delay the process, it is proposed that in future the signing of such agreements be delegated to officers and this be added as a new paragraph to the SoD.

4.3. The proposed addition is set out below:

Powers delegated to Chief Executive	Other authorised officers
(75) To enter into a legal agreement to secure off-site Biodiversity Net Gain in the Broads area.	Director of Operations or Director of Strategic Services

5. Powers delegated to Chief Executive (section 5)

5.1. Currently, section 5 is headed “Powers delegated to the Chief Executive to instruct a solicitor” and lists a number of items (paras. 5.1 - 5.11). A copy can be found in Appendix 1.

5.2. Clearly, some of those items do not require the involvement of a solicitor. Therefore, the proposal is to separate out those items (paras. 5.1 - 5.4 and 5.6) to differentiate them from the powers delegated to the Chief Executive (paras. 5.8 - 5.11). In addition, it is proposed to delete paras. 5.5 - 5.7 as these powers are covered elsewhere (by Section 4, 2(e) (45) and (48) respectively). Finally, it is proposed to amend para. 5.6 to include reference to Section 330 of the Town and Country Planning Act 1990 and move this delegation from the Chief Executive to the Director of Strategic Services, Head of Planning and Development Manager, where it would be more appropriate.

5.3. For clarity the proposed wording for section 5 is shown in Appendix 2.

6. Navigation functions

6.1. Part 2(h) under section 4 refers to navigation functions which are delegated to various officers. An additional function needs to be added, relating to insurance (new xii), and some tidying up of the wording for listed officers for clarification.

6.2. The proposed revisions are shown in Appendix 3.

7. Risk implications

7.1. The Authority and its decisions could be at risk of challenge, including judicial review, if its scheme of delegation is not reviewed and updated on a regular basis to ensure officers are properly authorised to carry out certain powers.

8. Conclusion

- 8.1. Members are asked to adopt the recommendations in paragraphs 2.2; 3.2 and 3.4; 4.3; 5.2 and 6.1.

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[Broads Plan](#) strategic objectives: n/a

Appendix 1 – Section 5 – current wording

Appendix 2 – Section 5 – proposed wording

Appendix 3 – Section 2(h)(79) – current & proposed wording

Appendix 1 – Section 5 current wording

5 Powers delegated to the Chief Executive to instruct a Solicitor

- 5.1 To institute, settle and enforce as appropriate, claims and proceedings:
 - a. for the possession of property belonging to the Authority or for protection against trespass;
 - b. for the recovery of fees, tolls, rent and other sums owing to the Authority;
 - c. in respect of other financial loss suffered by the Authority.
- 5.2 To defend, counterclaim, settle, as appropriate, civil proceedings against the Authority, in relation to claims not covered by the Authority's insurance policies and to lodge an appeal.
- 5.3 To institute and prosecute proceedings relating to any function of the Authority and to lodge an appeal.
- 5.4 To defend or lodge an appeal in any criminal proceedings against the Authority.
- 5.5 To determine applications for Certificates of Lawful Use and for Certificates of Lawfulness of Proposed Use or Development.
- 5.6 To serve notices requiring information to be given as to interests in land and, if necessary, to institute proceedings for failure to respond.
- 5.7 In cases of urgency and after consultation (if possible) with the Chair, or in the absence of the Chair the Vice-Chair, of the Planning Committee:
 - a. to issue Listed Building Enforcement Notices and Conservation Area Enforcement Notices concurrently with District Officers;
 - b. to issue Enforcement Notices, Stop Notices Temporary Stop Notices and Article 4 Directions;
 - c. to take enforcement action in respect of unauthorised advertisements.
- 5.8 To authorise officers who otherwise have no right of audience to appear in Magistrates Court and County Court proceedings.
- 5.9 To execute deeds, contracts and other legal documents on behalf of the Authority to give effect to decisions taken by the Authority, its committees, the Chief Executive or other officers exercising delegated powers.
- 5.10 To make minor amendments to the Authority's constitutional documents such as to give effect to changes to job titles, reflect legislative changes and to improve layout or correct typographical errors.

5.11 To implement policies and procedures and take appropriate steps to protect the Authority from unlawful disclosure of personal information and to report data breaches to the data regulatory authority.

Appendix 2 – Section 5 proposed wording

5 Powers delegated to the Chief Executive

- 5.1 To instruct a solicitor to:
- (i) institute, settle and enforce and enforce as appropriate, claims and proceedings:
 - a. for the possession of property belonging to the Authority or for protection against trespass;
 - b. for the recovery of fees, tolls, rent and other sums owing to the Authority;
 - c. in respect of other financial loss suffered by the Authority.
 - (ii) defend, counterclaim, settle, as appropriate, civil proceedings against the Authority, in relation to claims not covered by the Authority's insurance policies and to lodge an appeal.
 - (iii) institute and prosecute proceedings relating to any function of the Authority and to lodge an appeal.
 - (iv) defend or lodge an appeal in any criminal proceedings against the Authority.
- 5.2 To authorise officers who otherwise have no right of audience to appear in Magistrates Court and County Court proceedings.
- 5.3 To execute deeds, contracts and other legal documents on behalf of the Authority to give effect to decisions taken by the Authority, its committees, the Chief Executive or other officers exercising delegated powers.
- 5.4 To make minor amendments to the Authority's constitutional documents such as to give effect to changes to job titles, reflect legislative changes and to improve layout or correct typographical errors.
- 5.5 To implement policies and procedures and take appropriate steps to protect the Authority from unlawful disclosure of personal information and to report data breaches to the data regulatory authority.

Appendix 3 – Proposed wording for para. 79 under section 2(h)

Powers delegated to Chief Executive	Other authorised officers
<p>(79) In respect of the Broads Authority Act 2009:</p> <ul style="list-style-type: none"> (i) enforcing directions relating to the loading and unloading of vessels (section 10); (ii) exercising the powers and duties relating to the registration and licensing of vessels (section 11); (iii) designating authorised officers for the purpose of: <ul style="list-style-type: none"> a. entering and inspecting vessels and exercising related powers (section 17); b. exercising powers relating to unsafe vessels (section 19); (iv) determining whether a vessel is unsafe (section 18). (In this respect, it is intended that the authorised officers include qualified Boat Safety Scheme examiners and qualified Marine Surveyors); (v) exercising the powers and duties relating to the removal of unsafe vessels (section 20); (vi) designating authorised officers for the purposes of: <ul style="list-style-type: none"> a. requesting information about vessels (section 21); b. entering land, including adjacent waters (section 24); c. the inspection provisions in hire boat licences; (vii) serving notices requiring information from: <ul style="list-style-type: none"> a. masters and owners, etc as to vessels (section 22); b. landowners, etc as to vessels (section 23); (viii) exercising the following functions relating to water-skiing and wakeboarding: <ul style="list-style-type: none"> a. displaying directional signs (section 28(1)); 	<p>Current:</p> <p>In respect of (iv), (vi), (viii)(c) and (xi), Director of Operations, Head of Ranger Services and Head of Safety Management.</p> <p>In respect of (ix) and (x), Head of Construction, Maintenance & Ecology.</p> <p>In respect of (ii), (viii)(c) and (xi), Collector of Tolls</p> <p>Proposed:</p> <p>Director of Operations Head of Ranger Services Head of Safety Management (in respect of nos (iv), (vi), (viii)(c) and (xi)) Head of Construction and Maintenance (in respect of nos (ix) and (x)) Head of Information Technology and Collector of Tolls (in respect of nos (ii), (vii)(b), (viii)(c); (xi) and (xii))</p>

Powers delegated to Chief Executive	Other authorised officers
<ul style="list-style-type: none"> b. designating authorised officers for the purposes of giving directions as to water-skiing and wakeboarding (section 28(2)); c. issuing, cancelling and amending permits for water-skiing and wakeboarding (sections 27 and 30); (ix) removing vegetation that is an obstruction or danger to vessels in the navigation area including the service of notices (section 39); (x) serving notices and exercising default powers in respect of vegetation that obstructs or is a potential danger to vessels in the navigation area (section 39); (xi) powers and duties relating to the licensing of hire boats (section 40); (xii) powers and duties relating to insurance requirements and offences as to standards and insurance requirements (sections 14 and 15). 	

Highlighting indicates additional text