



Aylesford Parish Council

Clerk to the Council

23 Forstal Road

Aylesford, Kent

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Email: admin@aylesford-pc.gov.uk

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S101 Delegation of Powers

The Scheme of Delegation (s101 of the 1972 LGA), provides for delegating authority to the Clerk (Proper Officer) for making decisions on behalf of the council as and when appropriate. S101 requires formally agreed Terms of Reference by the Council that sets out the key themes of the delegation and the financial thresholds that apply.

The scheme of delegation is designed to be a temporary measure to facilitate effective decision making whilst restrictions are in place, for example COVID-19 or a decision cannot wait until the next Council Meeting. It allows the Clerk (Proper Officer) to take on the executive role during these times of restriction or urgency.

Delegation of Power

Section 101 of the Local Government Act 1972 provides:

- That a Council may delegate its powers (except those incapable of delegation) to a committee or an officer
- A committee may delegate its powers to an officer.
- The delegating body may exercise Powers that have been delegated.

Any delegation to the Proper Officer shall be exercised in compliance with the Councils Standing Orders, any other policies or conditions imposed by the Council and within the law.

The Proper Officer may nominate another named Officer to carry out any powers and duties, which have been delegated to that Officer.

Therefore, in an emergency the Proper Officer is empowered to carry out any function of the Council.

Where officers are contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult with a minimum of two Members and must ensure that they obtain appropriate legal, financial, and other specialist advice if deemed appropriate before action is taken.



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The following items may **not** be delegated to the Clerk:

- To appoint the Chair and Vice Chair in May each year
- To sign off the Governance Statement by 30th June each year
- To set the Precept
- To Appoint the Clerk
- To make Byelaws
- To borrow money
- To consider any matter required by law to be considered by Council.

To the Proper Officer LGA 1972 s101

The Council's Scheme of Delegation authorises the Clerk to the Council to act with delegated authority in the specific circumstances detailed:

To take action:

1. To take action on any issue that cannot wait until the next Parish Council meeting; as a temporary measure the Proper Officer is empowered to take any and all decisions that would normally be taken by Full Council, a Committee or a Sub-Committee, having consulted a minimum of two Members. Consultation may be by email, telephone or virtual meeting, followed up with a confirmation email if discussed by telephone or virtual meeting.
2. If circumstances do not permit the input of at least two councillors, the Clerk would normally be expected to consult the Chair or Vice Chair if the Chair is unavailable and take his/her view into account.

Financial thresholds:

3. To authorise expenditure on items where the Council has previously approved the annual budget to a maximum of £20,000 per transaction having consulted a minimum of two Members and the Chair of the Council, or to a higher level where the Council has agreed and minuted the expenditure at a prior meeting. Additionally, these Members should be independent of the two Members who will authorise the payments (by signing the invoices/payment schedule and physically making the payment via the Councils bank account). For the avoidance of doubt, this includes any payments that will be overdue before the next scheduled Council Meeting or where discounts may be lost to the Council; to include normal salaries and all items specifically budgeted for, contracted for or expenditure previously agreed by Council, a Committee or a Sub-Committee at a meeting.



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4. To incur expenditure on behalf of the Council, which is necessary to carry out any repair, replacement or other work or essential project which is of such extreme urgency that it must be done at once, whether or not there is any budgetary provision for the required expenditure, subject to a limit of £10,000 per transaction, having consulted with the Chair of the Council and taken on board his/her views.
5. To take any action regarding minor repairs or purchases (up to a cost of £5,000 per transaction) having consulted with a minimum of two Members.

Planning Matters:

6. Planning applications will be received by the Clerk and responses determined by the Clerk following consultation with a minimum of two Members.

Delegation, Limitations, Record Keeping and Reporting:

7. Records will be kept demonstrating a clear trail (particularly around decision making in all and any form).
8. All decisions will be reported at the next available Full Council Meeting.

Delegated actions shall be in accordance with Standing Orders and Financial Regulations and in line with directions given by the Council from time to time and this Scheme of Delegation, and where applicable any other rules/regulations/policies and legislation