

Report to	South Downs National Park Authority
Date	6 July 2021
By	Head of Governance & Support Services
Title of Report Decision	Updates to the Scheme of General Delegation of Authority to the Chief Executive and Directors

Recommendation: The Authority is recommended to:

- 1. Agree to amend the delegation of functions to the Chief Executive to include the power to:**
 - a) make such decisions and take such actions he considers necessary, in line with any conditions imposed by Defra, and where appropriate taking into account any recommendations received from the Local Assessment Panel, any guidance issued by Defra and any professional advice received, to deliver the Farming in Protected Landscapes programme including but not limited to, the appointment and administration of the Local Assessment Panel and the approval of grant funding applications, irrespective of value; and;**
 - b) agree the submission of bids for grant funding and the arrangements for the application of grant funds received, irrespective of value, with any significant grant bid submissions (whether in terms of finance or scale of project) being reported to the Policy and Resources Committee for information through the regular project /performance reporting mechanisms.**
- 2. Agree to amend the delegation of functions to the Director of Planning to include:**
 - a) Where a Development Consent Order has been granted by the relevant Secretary of State, the Director of Planning shall determine the discharge of requirements imposed by the Development Consent Order which relate to SDNPA as the Local Planning Authority.**
- 3. Authorise the Monitoring Officer to make the necessary updates to and republish the Authority's Standing Orders for Regulation of Authority Proceedings and Business.**

1. Background

- 1.1** This report sets out proposed changes to the Scheme of General Delegation of Authority to the Chief Executive and Directors (the Scheme). The Scheme is established in line with s101(1) of the Local Government Act 1972 which sets out that, subject to any express provision contained in legislation, a local authority (which term includes a National Park Authority) may arrange for the discharge of any of their functions by a committee, sub-committee or officer of the Authority, or by any other local authority.

- 1.2 The Scheme forms appendix 7 of the Authority's Standing Orders for Regulation of Authority Proceedings and Business (Standing Orders) and as such changes to the Scheme can only be made by resolution of the NPA. It is a general principle of the Scheme that any function delegated to the Chief Executive and Directors can be exercised by the Authority where the Authority considers this to be in the best interests of the Authority.
- 1.3 Further it is provided for within the Scheme that the Chief Executive and Directors may authorise any other appropriate officer of the Authority to exercise any of the functions delegated to them, but that the Chief Executive or Director shall remain fully accountable to the authority for the discharge of such functions.

2. Proposed updates to the Scheme

- 2.1 The following changes are proposed to the scheme:

Farming in Protected Landscapes (FiPL)

- 2.1.1 The government has recently announced details of the FiPL programme which enables the National park authority to oversee the allocation of funding to farm based projects within the National Park. This programme will include a Local Assessment Panel primarily made up of farmers from across the National Park and is led and co-ordinated by representatives from the Protected Landscape Team, which will consider and where appropriate recommend bids for funding from the FiPL allocation made to the NPA by Defra.
- 2.1.2 In order to ensure there is enough flexibility for the programme to deliver within the tight timescales envisaged by government (such as potentially having the first meeting of the Local Assessment Panel sometime in late summer) it is proposed to delegate authority to the Chief Executive to take all necessary actions to deliver the programme as set out below .
- 2.1.3 As the requirements of the FiPL programme are still being announced it is recommended that a general delegation be agreed in order to reduce the risk of any delay to the programme beginning its work in July. If new requirements are introduced through the publication of additional guidance it will be within the powers of the Chief Executive to enact such requirements immediately and provide for the effective operation of FiPL and avoid potential delay that may be introduced due to a need to seek the approval of the Authority.
- 2.1.4 Participation in the FiPL scheme was included in the Authority's Corporate Plan 2020-25 year 2 action plan for 2021/22 approved by the Authority at its meeting in March 2021 and the Chief Executive has confirmed this with Defra accordingly.

Proposed Wording of Delegation to the Chief Executive:

- 2.1.5 make such decisions and take such actions he considers necessary, in line with any conditions imposed by Defra, and where appropriate taking into account any recommendations received from the Local Assessment Panel, any guidance issued by Defra and any professional advice received, to deliver the Farming in Protected Landscapes programme including but not limited to, the appointment and administration of the Local Assessment Panel and the approval of grant funding applications, irrespective of value.

Approval of grant bids and allocation of grant funding.

- 2.1.6 Subject to the previous decision of the NPA to amend the Terms of reference for the Policy and Resources Committee with regards to the removal of the committee's role in the submission of bids for grant funding, it is proposed that this function be added to the standing delegations to the Chief Executive. This approach provides for senior management oversight of grant funding bids being made, whilst reducing the risk that opportunities are missed due to the reporting requirements of the Committee. Where significant grant bids are submitted (whether in terms of finance or scale of project) these will be reported to the Policy and Resources Committee through the regular project /performance reporting mechanisms.
- 2.1.7 Following any award of grant it is proposed that it be delegated to the Chief Executive to determine the application of any grant funds received in line with any grant conditions imposed.

Proposed Wording of Delegation to the Chief Executive:

- 2.1.8 agree the submission of bids for grant funding and the arrangements for the application of grant funds received, irrespective of value, with any significant grant bid submissions (whether in terms of finance or scale of project) being reported to the Policy and Resources Committee for information through the regular project /performance reporting mechanisms.

Nationally Significant infrastructure Projects (NSIPs)

- 2.1.9 As Members are aware there are a number of Nationally Significant Infrastructure Projects (NSIPs) within or adjoining the National Park. Unlike planning applications under the Town and Country Planning Acts the Authority does not determine NSIP applications, rather they are determined by the relevant Secretary of State following an examination in public and the receipt of a recommendation from the Examining Authority (a panel of Planning Inspectors). In much the same way as a Local Planning Authority Planning Committee is not bound by the recommendation of its planning officers the Secretary of State is not bound by the recommendation of the Examining Authority.
- 2.1.10 If an NSIP is approved a Development Consent Order is created which is legislation controlling the development. Two NSIPs have been approved to date within the National Park; i) Rampion 1 windfarm and the associated onshore underground cabling, and; ii) Esso's Southampton to London underground aviation fuel pipeline that was granted in October 2020.
- 2.1.11 Development Consent Orders (DCOs) are granted subject to 'requirements' that require details on a particular matter to be submitted to and approved in writing by the Local Planning Authority. These DCO requirements function in the same way as conditions on planning permissions. The requirements tend to cover detailed technical matters such as Construction Environmental Management Plans, Community Engagement Plans, Construction Traffic Management Plans and technical details in respect of matters such as drainage and landscape and ecological management. Depending upon the provisions in the DCO the SDNPA has, generally, between 6 and 8 weeks to determine these applications. If the SDNPA do not determine these applications within this time 'deemed consent' is granted and the details are approved by default.
- 2.1.12 It is proposed to include wording within the Scheme to confirm that the Director of Planning shall determine these requirements. These requirements would ordinarily be of a technical or operational nature that would not require determination at planning committee, remembering of course that the Secretary of State would have already determined the acceptability of the development. This additional delegation is solely proposed in respect of DCO requirements where, and after, Development Consent has been granted by the relevant Secretary of State. Officers will continue to, follow direction from NPA on the Authority's position in relation to specific NSIP proposals, as demonstrated by the proposed consultation response on the M3 Junction 9 proposal which forms part of the agenda for this NPA meeting.
- 2.1.13 It is considered desirable to have this wording inserted for the avoidance of doubt, notably as the applications relate to DCOs which are granted by the Secretary of State under a separate regime to the majority of the development management work handled by the Authority.

Wording of Proposed Delegation to the Director of Planning:

- 2.1.14 Where a Development Consent Order has been granted by the relevant Secretary of State, the Director of Planning shall determine the discharge of requirements imposed by the Development Consent Order which relate to SDNPA as the Local Planning Authority.
- 2.2 An Updated General Delegation of Authority to the Chief Executive and Directors is attached at appendix I highlighting the proposed changes.

3. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No.
Does the proposal raise any Resource implications?	There are no financial implications arising from this report.
How does the proposal represent Value for Money?	Ensuring standing orders and the policy framework are up to date assists the efficient running of the organisation.
Are there any Social Value implications arising from the proposal?	None
Has due regard has been taken of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	There are no equalities implications arising from this report. Equalities issues will be taken into account in relation to any decisions taking with regard to the application and administration of any grant funding submission and in the operation of the FiPL programme.
Are there any Human Rights implications arising from the proposal?	There are no Human Rights implications arising from this report
Are there any Crime & Disorder implications arising from the proposal?	There are no crime and disorder implications arising from this report.
Are there any Health & Safety implications arising from the proposal?	There are no Health and Safety implications arising from this report.
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy?	The report contributes to principle 4 of the SDNPA sustainability Strategy: Promoting good governance.

4. Risks Associated with the Proposed Decision

Risk	Likelihood	Impact	Mitigation
Failure to maintain an up to date policy Framework and Standing Orders leads to decisions being challenged or delays in decision making	3	4	<p>Standing orders and policy framework kept under review.</p> <p>Monitoring Officer Contract in place.</p> <p>Programme of Audits includes governance issues.</p>

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Appendices:	Appendix I updated General Delegation of Authority to the Chief Executive and Directors
SDNPA Consultees	Chief Executive; Director of Countryside and Policy Management; Director of Planning; Monitoring Officer
External Consultees	None
Background Documents	Current Standing orders

SOUTH DOWNS NATIONAL PARK AUTHORITY GENERAL DELEGATION OF AUTHORITY TO THE CHIEF EXECUTIVE AND DIRECTORS

1. INTRODUCTION

- 1.1 Section 101(1) Local Government Act 1972 provides that, subject to any express provision contained in legislation, a local authority (which term includes a National Park Authority) may arrange for the discharge of any of their functions by a committee, sub-committee or officer of the authority, or by any other local authority.
- 1.2 In the exercise of its power under s.101(1), and to ensure efficiency in the management of resources and delivery of services, the Authority has adopted this Scheme of Delegation to the Chief Executive and Directors .

2. GENERAL PRINCIPLES

In all cases, officers shall carry out the functions delegated to them by this Scheme in accordance with the following general principles:

- 2.1 The objective for officers shall be to give effect to, and achieve the objectives of, the strategies, policies and plans adopted by the Authority and its committees.
- 2.2 Officers shall comply with all procedures and protocols adopted by the Authority, including Standing Orders, Financial Regulations, and the Officer Code of Conduct, and ensure that any expenditure that is incurred is provided for within the Authority's approved budget.
- 2.3 Officers shall maintain close liaison with the Chair of the Authority or, where the function being exercised relates to a matter within the terms of reference of a committee, sub-committee or panel, the Chair of that committee, sub-committee or panel (and in any case where the Chair is absent, the Deputy Chair(s) of the Authority, committee, sub-committee or panel, as the case may be).
- 2.4 The delegation of authority to officers is subject in all cases to the right of the Authority to discharge any function hereby delegated to any officer, instead of that officer, where the Authority considers this to be in the best interests of the Authority.

3. DELEGATION OF FUNCTIONS TO THE CHIEF EXECUTIVE

The Chief Executive is hereby authorised to:

- 3.1 Undertake the day-to-day management and control of the Authority, its officers, resources, premises and services.
- 3.2 Make such decisions and take such action as he considers necessary to give effect to any decision of the Authority, its committees and panels and any objectives within the PMP or Authority Corporate Plan to ensure the efficient and effective co-ordination and discharge of the Authority's functions, including power to commit resources and incur expenditure within the Authority's approved budget.
- 3.3 Commission or otherwise undertake due diligence or other such investigatory activity in relation to matters being considered for inclusion in the Authority's capital programme.

- 3.4 Authorise any other officer of the Authority to act on his behalf in the exercise of any of the functions delegated to him, but shall remain fully accountable to the Authority for the discharge of such functions.
- 3.5 Authorise any Director to discharge the functions hereby delegated to him, in his absence.
- 3.6 Act in relation to the appointment, termination, discipline and determination of all matters relating to the employment of staff.
- 3.7 Commence, defend, participate in or settle any legal proceedings in any case where he considers this necessary to protect the interests of the Authority, including the power to take all such procedural or other steps incidental to such proceedings.
- 3.8 Authorise any officer of the Authority to prosecute or defend or appear in any legal proceedings further to Section 223 Local Government Act 1972.
- 3.9 Authorise staff to exercise such powers of entry, inspection and survey of land, buildings or premises and to issue evidence of such authority.
- 3.10 Sign any order or document necessary to give effect to any decision of the Authority or committee.
- 3.11 Agree any term, condition or provision within any legal documentation to protect the interests of the Authority.
- 3.12 Discharge any function hereby delegated to any Director, instead of that Director, or to authorise another Director to do so, in the Director's absence or where he considers this to be in the interests of the Authority.
- 3.13 Implement, manage and administer the Coast to Capital Local Enterprise Partnership Joint Committee.
- 3.14 In consultation with the Chair of the Authority the appointment of members to outside bodies in accordance with rule 26 where such appointment cannot be deferred to the next Annual Meeting of the Authority.
- 3.15 In consultation with the Chair of the Policy & Resources Committee, the power to make decisions on applications for, or reviews of, directions for restrictions on Access Land which require public consultation (long-term restrictions), except in those cases when the Chief Executive and Chair of the Policy and Resources Committee are of the opinion that it should be dealt with by the Policy and Resources Committee.
- 3.16 make such decisions and take such actions he considers necessary, in line with any conditions imposed by Defra, and where appropriate taking into account any recommendations received from the Local Assessment Panel, any guidance issued by Defra and any professional advice received, to deliver the Farming in Protected Landscapes programme including but not limited to, the appointment and administration of the Local Assessment Panel and the approval of grant funding applications, irrespective of value
- 3.17 agree the submission of bids for grant funding and the arrangements for the application of grant funds received, irrespective of value, with any significant grant bid submissions (whether in terms of finance or scale of project) being reported to the Policy and Resources Committee for information through the regular project /performance reporting mechanisms.
- 3.18 In relation to the operation of South Downs Commercial Operations Limited, exercise the powers of the NPA as Shareholder to:

- 3.18.1 Change the bankers of the Company or open or close any bank accounts.
- 3.18.2 Give notice of termination of any agreements of a material nature in the context of the Business or make any material variation or amendment to any such agreements.
- 3.18.3 Commence, settle or defend any claim, proceedings or other litigation brought by or against the Company, except in relation to debt collection not exceeding £100,000 in the ordinary course of the Business in which case the Board of the Company may do this.
- 3.18.4 Alter the Company's accounting reference date.
- 3.18.5 Approve or sign the annual accounts of the Company.
- 3.18.6 Change any of the Company's accounting or reporting practices.
- 3.18.7 Recruit or dismiss any employee whose remuneration exceeds £40,000 per annum subject to an aggregate limit of £100,000 unless provided for in the Annual Business Plan. [provided always that any employee may be dismissed for gross misconduct by the Board of the Company]
- 3.18.8 Alter the remuneration or conditions of employment of any employee or any consultant of the Business unless provided for in the Annual Business Plan or unless obliged to do so by statute in which case the Board of the Company may do this.
- 3.18.9 Make any agreement with any revenue authorities or any other taxing authority, or make any claim, disclaimer, election or consent of a material nature for tax purposes in relation to the Company, its business, assets or undertaking.
- 3.18.10 Appoint or remove the Company Secretary.
- 3.18.11 Where required, approve the choice of alternate director proposed to be appointed by a director of the company pursuant to Article 11.1.1 of the company's Articles of Association.
- 3.19 In relation to the operation of South Downs Commercial Operations Limited, be the representative of the NPA as Shareholder and, in that capacity, to attend, speak at and vote at general meetings of the company as well as be the nominated person permitted to access the books and records of the company and to discuss its affairs with the directors and senior management pursuant to Article 28.2. of the company's Articles of Association.

4. DELEGATION OF FUNCTIONS TO THE DIRECTOR OF COUNTRYSIDE POLICY AND MANAGEMENT

- 4.1 In consultation with the Chair of the Policy and Resources Committee, the power to make decisions on applications for, or reviews of, directions for restrictions on Access Land which do not require public consultation (short-term restrictions).
- 4.2 In consultation with the Chair for of the Authority, the power to appoint the Chair of the South Downs Partnership and the power to agree the basis of any appointment and the terms, including the payment of any allowance, upon which the Chair of the South Downs Partnership may be appointed.
- 4.3 In consultation with the Chair of the Authority and the Chair of the South Downs Partnership, the power to appoint members of the South Downs Partnership and the power to agree the basis of any appointment and the terms, including the payment of

any allowance, upon which members of the South Downs Partnership may be appointed.

5. DELEGATION OF FUNCTIONS TO THE DIRECTOR OF PLANNING

5.1 Subject to paragraph 5.3, the Director of Planning is hereby authorised to make all decisions required and take all actions necessary in the discharge of the functions of the Authority falling within the terms of reference of the Planning Committee, except where and to the extent that the particular matter falls within one of the descriptions of functions set out in paragraph 5.2 (i)-(viii) below in which case it shall be referred to the Planning Committee for determination, however, this does not prevent the Planning Committee from delegating any of these functions to the Director of Planning.

5.2 The descriptions of functions referred to in paragraph 5.1 above are:

- i) planning applications (except for householder and other minor applications) which are contrary to the approved or draft development plan or other planning policies but which are recommended for approval
- ii) applications (except for householder and other minor applications) which are requested for referral to the Planning Committee by any Member of the Authority, in writing or email to the Director of Planning and with specified reasons
- iii) applications (except for householder and other minor applications) which, in the opinion of the Director of Planning, have generated significant and material third party representations which are contrary to the officer recommendation
- iv) applications from Authority Members or employees
- v) applications submitted by or on behalf of the Authority for its own developments, except for the approval of minor developments
- vi) applications which, at the discretion of the Director of Planning, have potential significant impact or could set an important precedent
- vii) enforcement action which requires prosecution, the service of a “Stop Notice” or any other Notice or action which in the opinion of the Director of Planning might potentially have significant financial risks for the Authority.
- viii) the allocation of resources received through the community infrastructure levy.

Note – All other enforcement action taken in terms of these delegations is to be carried out only after the appropriate legal advice has been taken and subject to reports on progress being made to the Planning Committee as required by the committee

5.3 In the event that a meeting of the Planning Committee cannot reasonably be convened in accordance with relevant legislation, the functions listed in paragraph 5.2 (i)-(viii) above may be exercised by the Director of Planning in consultation with the Chair of the Planning Committee.

5.4 In exercising the development management functions of the Authority the Director of Planning is authorised to allocate funds received under s106 agreements.

5.5 The Director of Planning will normally provide the Authority’s response, if any, to consultations from neighboring authorities, government or others on planning matters of non-strategic importance.

- 5.6 The Director of Planning shall determine whether a matter that would otherwise be determined by a local council under delegation arrangements is suitably “significant” to be referred instead for determination by the Authority.
- 5.7 Where a Development Consent Order has been granted by the relevant Secretary of State, the Director of Planning shall determine the discharge of requirements imposed by the Development Consent Order which relate to SDNPA as the Local Planning Authority.
- 5.8 The Director of Planning may authorise any other officer of the Authority with appropriate planning qualifications and experience to act on his/her behalf in carrying out the functions hereby delegated to them but shall remain fully accountable to the Authority for the discharge of such functions.

6 DELEGATION OF FUNCTIONS TO THE DIRECTORS – GENERAL

- 6.1 The provisions in this section apply to the following posts: Director of Countryside and Policy Management and Director of Planning; (“the Directors”)
- 6.2 Subject to the terms of the more specific delegations in the sections above, each of the Directors is hereby authorised to make such decisions and take such action as they consider necessary to give effect to any decision of the Authority, its committees, sub-committees and panels, and to carry out the day to day business of the Authority within their Area of Responsibility as defined in paragraph 6.3. This authority includes power to:
- 6.2.1 commit resources and incur expenditure within the Authority’s approved budget
- 6.2.2 authorise any other officer of the Authority to act on their behalf in the exercise of any of the functions delegated, although they shall remain fully accountable to the Authority for the discharge of such functions.
- 6.3 The Directors’ Areas of Responsibility are as follows:
- 6.3.1 **Director of Director of Countryside and Policy Management** : the Authority’s functions in relation to the delivery on the ground of National Park purposes, including the management of rangers and volunteers and the statutory duty to manage access land, rights of way, water, tourism , sustainability, maintain the National Trail and convene a Local Access Forum, Sustainable Communities Fund and Strategic Fund (subject to powers reserved by the Authority and delegated elsewhere), policy, research and evidence base underpinning the Authority’s statutory duties, the preparation and maintenance of the Management Plan
- 6.3.2 **Director of Planning:** the Authority’s functions in relation to its statutory duties as the local planning authority for the National Park, including spatial planning, environmental design, development control, planning enforcement, minerals and waste, Economic Planning Advice, Landscape, Historic Buildings and NP Design