

**NORTH EAST DERBYSHIRE DISTRICT COUNCIL**

**RECORD OF DECISION TAKEN BY THE  
MONITORING OFFICER**

**3<sup>RD</sup> DECMEBER 2021**

**CLARIFICATION ON INTERPRETATION WITHIN THE DELEGATION SCHEME**

Authority for decision	Decision	Reasons	Alternative options considered and rejected	Conflicts of interest and any dispensation
<p><b>MO's delegation 20 – To Make appropriate changes to the Constitution arising from any new legislation, administrative errors or conflicts in interpretation</b></p>	<p>To amend the Director of Environment and Enforcement's delegation 11.13 to provide clarity on interpretation. The delegation currently states:</p> <p><i>"To authorise the making of Public Space Protection Orders under Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014, following consultation with the Leader or Deputy Leader of the Council and relevant ward members, and to incur any necessary expenditure to create, manage or revoke Public Space Protection Orders."</i></p>	<p>The current wording has become unclear, and to avoid any legal challenge to an order under Pt 4 it is prudent to ensure that the word of the delegation are express and cannot be misinterpreted.</p>	<p>Status quo, no change. This is rejected as it may offer an opportunity for an argument to be put, in defence of a notice served, to challenge that the Authority had not allocated sufficient delegated powers to an authorised officer.</p>	<p>None</p>

The delegation was designed to encompass all Part 4 notices and orders, and singles out the making of PSPOs as requiring extra consultation above that of other notices / orders detailed in part 4 of the Anti social Behaviour Crime and Policing Act 2014.

To rectify this potential conflict additional wording is added:

*“To authorise the making **of notices and orders** under Part 4 of the Anti Social Behaviour, Crime and Policing Act 2014. **In the case of Public Space Protection Orders only these will require consultation with the Leader or Deputy Leader of the Council and relevant ward members, and **authorisation given** incur any necessary expenditure to create, manage or revoke Public Space Protection Orders.”***

	<p>NB: The delegation scheme has been changed recently under delegated decision to reflect changes in the Senior Management Team Structure – the delegation referred to now delegated to the HOPS as 11.14, however this is not yet printed in the constitution which is why reference is made above to the published delegation.</p>			
--	---	--	--	--

Please complete the following where relevant:

<b>Key Decision?</b>	<b>Confidential/ Exempt (if yes, please state paragraph)?</b>	<b>Do General Exception or Special Urgency Rules apply to this decision?</b>	<b>Consultation has taken place with the Section 151 &amp; Monitoring Officer?</b>	<b>The Leader, Deputy Leader or relevant Portfolio Member have been consulted?</b>
No	No	No	Yes	No

Authorising Signature: .....

Job title: .....

Unique Reference Number: .....

Date decision may be implemented following call in (if necessary): .....

Circulation to:

Head of Paid Service, Monitoring Officer, Section 151 Officer, Scrutiny Officer, Internal Audit