

Procedure for Waiving of Standing Orders
Report by Solicitor and Monitoring Officer

Summary: The Committee is invited to consider updating the procedure for the waiver of Standing Orders so as to set an upper limit of the Chief Executive's delegated authority when exercising such a waiver in addition to clarifying the process of approval where this limit may need to be exceeded.

Recommendation:

Members are invited to make recommendations for Full Authority approval:

- (i) Setting an upper limit to the Chief Executive's delegated authority when exercising a waiver, and
- (ii) To recommend a process to be used on the rare occasions when that may need to be exceeded.

1 Introduction

- 1.1 The Authority's Standing Orders relating to Contracts provide for the Chief Executive to authorise a waiver of Standing Orders by certifying one of a handful of criteria are met. They also require that all waivers authorised under delegated powers must be reported to the Authority. It has been agreed that any waivers will be reported on an annual basis, after the end of each financial year.
- 1.2 In light of the need to approve a recent waiver, officers noted the need to clarify the extent and operation of the Chief Executive's delegated authority in accordance with the principles of good governance and risk management.

2 Options available to the Committee

- 2.1 From time to time, the Chief Executive is invited to approve the waiver of Standing Orders relating to Contracts for reasons such as:
 - There are only one or two suppliers of a specialist piece of equipment
 - For extensions of existing contracts, providing the variation is not more than 10% of the original contract sum

- Where it is not considered reasonably practicable, or in the interests of the Authority to comply with Standing Orders, subject to a report to the next meeting of the Authority.

3 Setting an appropriate Financial Limit:

- 3.1 Having reviewed in detail the current Scheme of Powers Delegated to Officers, there is no specified upper limit in financial terms to the Chief Executive's authority when approving a waiver.
- 3.2 At the last full Authority meeting on 15 May 2015, members agreed that a clear limit should be agreed by this Committee and that there be a clear process indicating what should be done should there be an urgent need for approving waivers for larger contract sums beyond that upper limit.
- 3.3 As indicated within the current Scheme of Powers Delegated to Officers, the Chief Executive is currently delegated authority to enter into agreements varying in value between £5,000 – £25,000. Members are invited to take this into account when considering what limit to impose upon the Chief Executive's delegated authority in future whilst being mindful of the need to allow the Chief Executive sufficient authority to facilitate the operation of the organisation in a normal business-like manner.

4 Process where a waiver beyond the Chief Executive's delegated authority may be required:

- 4.1 One of the impacts upon the Authority once an upper financial limit is set to the Chief Executive's delegated authority when approving a waiver, shall be on those very rare occasions where approval is required beyond that amount.
- 4.2 This occurred recently whereupon advice was sought and the Chief Executive took the precautionary approach of consulting the Chair and Vice-Chair of the Authority, the Chairman of the Financial Scrutiny and Audit Committee and because Navigation Expenditure was involved, the Chairman of the Navigation Committee prior to authorising the waiver sought. All were supportive of the waiver and the Chief Executive therefore authorised the order to proceed whereupon this was reported to the full Authority at the next available meeting in May 2015.
- 4.3 In light of this, Members are invited to approve a suitable process which allows for these rare occasions where an urgent waiver is justified but that the amount in question is above the upper limit permissible under the Chief Executive's delegated authority.

Background papers: None

Author: Piero Ionta
Date of report: 22 June 2015

Broads Plan Objectives: None

Appendices: APPENDIX 1 – Scheme of Powers Delegated to Officers dated 26 September 2014.
APPENDIX 2 – Minutes from Broads Authority dated 15 May 2015 (agenda Item 6/14).
APPENDIX 3 – Request Form for approval to waive Standing Orders.



Broads Authority

Scheme of Powers Delegated to Officers

Introduction

Members are responsible for setting the strategy and policies of the Authority and monitoring their implementation, whilst officers are responsible for providing advice to members and running the business of the Authority within the strategic, policy and financial guidelines laid down by members.

Whilst members should leave the day-to-day implementation of policies, including management, to officers, they have a right to ensure that the decisions for which they are statutorily responsible and accountable are implemented by officers in a timely and efficient manner.

The purpose of these Delegated Powers is to ensure that officers are empowered to make decisions and take appropriate action within the guidelines laid down, and to enable members to focus on key strategic and policy issues.

General Powers of All Officers

The exercise of these delegated powers will be subject to the following conditions:

- (a) They must be exercised in accordance with the overall strategies, policies and priorities of the Authority as set out in the Norfolk and Suffolk Broads Act 1988, Broads Authority Act 2009, Broads Plan, Broads Local Plan/Local Development Framework and Business Plan.
- (b) They must be exercised in accordance with the Authority's Standing Orders and Financial Regulations, and must not be exercised so as to incur expenditure for which no adequate provision is made in the approved budgets.
- (c) They must be exercised in accordance with the law and with any policies, regulations, codes or similar documents adopted by the Authority or its committees.
- (d) An officer need not exercise a delegated power in any particular case and must not do so if the matter appears to the officer to involve any matters of public controversy or questions of policy not yet decided by the Authority or its committees or any significant change from previous practice.

- (e) Where the matter falls partly within the professional or technical responsibility of another officer or adviser, the officer taking the decision must consult with those officers as appropriate and have proper regard to any advice given, before authorising action.
- (f) Any power conferred upon the Chief Executive (including any power to act as the proper officer) may be exercised by another officer specifically nominated in writing by the Chief Executive. Details of the officers who have been authorised to exercise powers on behalf of the Chief Executive are set out in the document entitled 'Arrangements for the Exercise of Powers by Other Officers'.
- (g) The Authority or a committee may direct that action taken by an officer or officers be reported to it periodically.
- (h) Failure to carry out the consultations in paragraphs A(5) and E(38) of the powers delegated to the Chief Executive and paragraph (8) of the powers delegated to the Solicitor to the Authority will not invalidate the exercise of the delegated power.
- (i) The decision of the Chief Executive in consultation with the Monitoring Officer as to the scope and interpretation of these delegated powers shall be final.
- (j) In accordance with the Openness of Local Government Bodies Regulations 2014, a written record will be produced for any delegation which has been highlighted yellow, or involves a contract or incurs expenditure above £25,000.

Powers Delegated to Chief Executive

A General Management and Administration

- (1) To carry out the duties of Head of Paid Service under the provisions of the Local Government and Housing Act 1989 and to be responsible for the management of all staff employed by the Authority.
- (2) To undertake the day-to-day management and control of the Authority, its premises and services to give effect to the strategies and policies as set out in the Broads Plan, Local Development Framework and Business Plan.
- (3) To authorise any action necessary to give effect to the implementation of the Broads Plan and Business Plan, and for this purpose to incur expenditure up to the limits provided for in Standing Orders and Financial Regulations.
- (4) To authorise any action necessary to give effect to any decision of the Authority or its committees.

- (5) In cases of urgency or emergency to take any appropriate action, in consultation (if possible) with the Chair, or in the absence of the Chair, with the Vice-Chair, including the authorisation of any legal proceedings, to protect the position of the Authority. In such cases the Chief Executive will report the action taken to the Authority.
- (6) To take appropriate action to preserve the Authority's position pending the scrutiny by the Authority of local and personal Parliamentary Bills, statutory orders and instruments or any other proposal, plan, scheme or other matter affecting the interests of the Broads.
- (7) To make arrangements to ensure that all expenditure is regularly monitored against approved budgets and that any significant overspends are reported to the Authority.

B Finance and Audit Matters

- (8) To be responsible for regulating and controlling the financial resources of the Authority in order to achieve the objectives of the Authority.
- (9) To transfer expenditure between budget heads provided that the action taken complies with Financial Regulations, is consistent with the Authority's policy and does not conflict with any decisions taken by the Authority or any of its committees.
- (10) To manage the Authority's insurances in accordance with overall guidelines specified by the Treasurer and Financial Adviser.
- (11) To ensure that arrangements are in place to pay all sums to creditors.
- (12) To approve the Selective Tendering standing list of contractors to be invited to submit tenders where the estimated value of the contract does not exceed £50,000.

C Personnel Matters

- (13) To determine the current and future staffing requirements and organisational structure of the Authority, including amendments to the Authority's staff establishment.
- (14) To determine matters relating to the remuneration and conditions of service of employees in accordance with the national conditions of service and the Authority's Scheme of Local Conditions of Service.
- (15) To adopt local agreements in respect of conditions of service where there are no unresolved objections from trade unions or members of staff.
- (16) To appoint staff, subject to such appointments being in accordance with the Business Plan and subject to the availability of funding in the

appropriate budget (and subject in the case of Directors to consultation with the Chair of the Authority and appropriate Committee Chair).

- (17) To determine politically restricted posts.
- (18) To appoint the navigation officer (after consultation with the Navigation Committee) and any deputy.
- (19) To determine matters concerned with employee relations generally within the Authority including the recognition of appropriate trade unions and the establishment of an appropriate consultative and negotiating machinery.
- (20) To determine health and safety matters.
- (21) Subject to observance of the appropriate procedures in the Conditions of Service of the employee:
 - (i) to take disciplinary action on and to dismiss an employee;
 - (ii) to convene a Sub-Committee of the Authority to consider appeals in relation to disciplinary, grievance and other personnel-related matters.
- (22) To extend an employee's period of sick leave on full pay or half pay for a period not exceeding twelve months.
- (23) To reimburse the costs of damage to an employee's personal property up to a maximum of £5,000 in any one case, provided the Chief Executive is satisfied that the damage was caused as a result of the employee pursuing Authority business.
- (24) To authorise the payment of any ex-gratia payments or honoraria to employees up to a maximum of £5,000.
- (24A) To authorise the payment of any severance or settlement payments to former employees up to a maximum of £5,000.
- (25) In consultation with the Chairman, to establish a Member Appeals Panel of three members.
- (26) To exercise the discretions as set out in paragraphs 5, 6, 9 and 10 of the Authority's Local Pension Scheme Policy Statement.

D Land

- (27) To approve the acquisition by the Authority of:
 - (i) the leasehold interest in property for any term to an annual rent not exceeding £10,000;

- (ii) the freehold interest in property at a price not exceeding £25,000.
- (28) To approve increases in rent not exceeding £10,000 per annum.
- (29) To enter into permissive path agreements and access agreements.
- (30) To grant wayleaves, licences, easements and highway dedications over the Authority's land.
- (31) To give written notice proposing to seek permission for Authority development or the development of land vested in the Authority which it does not propose to carry out itself, in accordance with the Town and Country Planning General Regulations 1992.
- (32) To authorise named officers to enter land (including buildings) for the purpose of surveying, investigation, prosecution or enforcement, in connection with any of the Authority's functions.
- (33) To authorise the disposal of land and property to a maximum value of £25,000, in accordance with advice from the Authority's Property Advisers.

E Planning

- (34) All planning applications¹ are considered to fall within the delegation scheme and will be determined by officers unless:
 - (i) it is for a major development as defined in the Town and Country Planning (General Development Management Procedure) Order 2010;
 - (ii) the application represents a departure from the development plan policies including the Broads Local Plan/Local Development Framework and any relevant policy adopted by the Authority and it is proposed to grant planning permission;
 - (iii) objections are received from any statutory consultee (excluding parish councils) in respect of any proposed development within the 21 day period for consultation and it is proposed to grant planning permission;
 - (iv) representations in writing are received from parish councils in respect of any proposed development within the 21 day period

¹ The applications and notification shall include planning permission, approval of reserved matters, advertisement consent, listed building consent, conservation area consent, prior approval applications submitted under the Town and Country Planning (General Permitted Development) Order 1995 and consent under the Hazardous Substances regulations.

- for consultation where these raise material planning considerations of significant weight ;
- (v) representations are received in writing from other persons in respect of any proposed development within the 21 day period for consultation where these raise material planning considerations of significant weight ;
 - (vi) any member of the Authority requests within 21 days of receipt of the schedule of planning applications that the application is placed before the Planning Committee for a decision and provides a material planning reason of significant weight for that request in writing;
 - (vii) the Ward Member of the relevant District Council requests within 21 days of receipt of the schedule of planning applications that the application is placed before the Planning Committee for a decision and provides a material planning reason of significant weight for that request in writing;
 - (viii) the Director of Planning and Resources considers that the matter ought more appropriately be referred to the Committee for a decision;
 - (ix) any member or member of staff of the Authority, including co-opted members of the Navigation Committee, is involved in the application.
- (35) To approve details submitted in accordance with a condition of a planning consent.
 - (36) To determine reasons for decisions.
 - (37) To formally discharge planning conditions upon compliance.
 - (38) To serve Breach of Condition Notices, Planning Contravention Notices and Section 330 Notices.
 - (39) 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 and Conservation Area Enforcement Notices;
 - (iii) to issue Enforcement Notices, Stop Notices Temporary Stop Notices;

- (iv) to take enforcement action in respect of unauthorised advertisements.
- (40)
- (i) To make and serve Tree Preservation Orders.
 - (ii) To confirm non-controversial Tree Preservation Orders.
- (41)
- (i) To comment on non-controversial felling licence applications and broadleaved woodland grant schemes.
 - (ii) To make observations to the Forestry Commission on applications for grants and Forestry Grant Schemes and consultations over dedication schemes and the Commission's own new planting proposals in relation to areas up to 10 hectares.
- (42) To deal with notices to lop, top and fell trees in conservation areas. To determine applications to lop, top or fell trees within Tree Preservation Orders or Groups.
- (43) To submit observations on environmental issues and to lodge holding objections in respect of applications for Goods Vehicle Operators Licences.
- (44) To reply to consultation on certified sites for camping and caravanning and for caravan and tent rally sites.
- (45) In respect of planning applications:
- (i) to sign and issue the formal decision notices on planning matters which have been before the Planning Committee or determined under delegated powers;
 - (ii) to impose detailed conditions on planning permissions granted by the Authority (including deemed permissions);
 - (iii) to determine the appropriate grounds where permission is either refused or approved;
 - (iv) to refuse a planning application, if within six months of any decision to enter into a Section 106 Agreement by Committee, that Agreement has not been signed.
- (46) To determine which planning applications should be referred to the Navigation Committee for consultation, in accordance with Section 9 (6) (a) (iv) of the Norfolk and Suffolk Broads Act 1988.
- (47) To determine whether an environmental impact assessment is required and to agree the scope of any environmental statement under the Environmental Impact Regulations 1999.

- (48) To determine whether to exercise the discretionary power available to the Authority with regard to the siting, design and external appearance of agricultural and forestry buildings and the siting and means of construction of private roads for agricultural and forestry purposes.
- (49) To determine whether applications are likely to have a significant effect on a European Site, following consultation with Natural England, under the terms of the Conservation (Natural Habitats Etc) Regulations 1994.
- (50) To implement the Hedgerow Regulations 1997 in authorising rights of entry, administrative consultation arrangements and the use of outside assistance.
- (51) To give observations in respect of development by other authorities, government departments and statutory undertakers where there are no outstanding objections which cannot be met within the terms of the observations.
- (52) To determine Forestry Grant applications up to £5,000.
- (53) To respond to consultations on planning applications in respect of land outside the Authority's Executive Area, subject to consideration by the Planning Committee of those applications which have serious implications for the Broads, either in landscape or environmental terms.
- (54) To fulfil the Authority's role as a Competent Authority with regard to consideration of development proposals affecting Special Protection Areas and Special Areas of Conservation in the Broads, including the determination of Appropriate Assessments.
- (55) In respect of non-material amendments to planning applications:
 - (i) to define in individual cases what constitutes a non-material amendment; and
 - (ii) to determine applications for non-material amendments except in cases that fall within paragraph 35(ix) of this scheme.
- (56) To settle the terms of Section 106 Agreements required in connection with planning applications including amendments to existing Section 106 agreements.

F Recreation and Tourism

- (57) To exercise the powers and duties of the Authority in accordance with the overall policy determined by the Authority in relation to the following matters:

- (i) tourism, including interpretation, information and associated visitor services;
 - (ii) common land;
 - (iii) access to open country;
 - (iv) open spaces;
 - (v) caravan, camping and picnic sites;
 - (vi) recreation provision and associated facilities, including car parks and public toilets;
 - (vii) country parks;
 - (viii) public paths (except where delegated to the Planning Committee);
 - (ix) the provision of accommodation, meals, refreshments, parking places and toilets;
 - (x) environmental education;
 - (xi) staites.
- (58) To confirm orders creating, diverting, extinguishing or downgrading public paths in respect of which there is no unresolved objection.
- (59) To respond to consultations from other public authorities on proposals to create, divert, extinguish or downgrade public rights of way.

G Conservation

- (60) To exercise the powers and duties of the Authority in accordance with the overall policies determined by the Authority in relation to the following matters:
- (i) responding to notifications of operations within the Broads under Section 5(2) of the Norfolk and Suffolk Broads Act 1988;
 - (ii) nature reserves;
 - (iii) land drainage (including the preparation and review of a code of practice for drainage works);
 - (iv) water quality;
 - (v) responding to consultations on proposals to discharge trade and sewage effluent;

- (vi) responding to notifications on the making of farm capital grants;
 - (vii) nature conservation (except where other provision is made in this scheme), including woodland and fen management, grazing marshes, research, site management and grant aid for conservation purposes;.
 - (viii) the designation of areas of natural beauty under Section 4 of the Norfolk and Suffolk Broads Act 1988.
- (61) To respond to consultations under Section 36 of the Control of Pollution Act 1974.
 - (62) To enter into management agreements under Section 39 of the Wildlife and Countryside Act 1981 up to £5,000 per annum for maximum of 21 years.
 - (63) To make holding objections to the making of farm capital grants.
 - (64) To make representations to the Environment Agency following notification of applications for significant discharges under Section 36 of the Control of Pollution Act 1974.
 - (65) To make written representation on applications received under the Water Resources (Licences) (Amendment) Regulations 1989.
 - (66) To fulfil the Authority's role as a Competent Authority with regard to consideration of proposed works affecting Special Protection Areas, Special Areas of Conservation and stipulated species in the Broads, including the determination of Appropriate Assessments.

H Navigation

Arising from the Norfolk and Suffolk Broads Act 1988 (as amended)

- (67) To exercise the powers and duties of the Authority in accordance with the overall policy determined by the Authority in relation to the following matters (where appropriate in consultation with the Navigation Committee):
 - (i) the maintenance and improvement of the navigation area;
 - (ii) the creation of public rights of navigation;
 - (iii) the provision of moorings and other navigational facilities;
 - (iv) the closure of waterways (other than for nature conservation purposes);

- (v) the repair of landing places, embankments, private moorings and other similar structures.
- (68) To determine works licences.
- (69) To seek modifications to plans submitted with applications for works licences.
- (70) To enforce works licences.
- (71) To remove obstructions from waterways.
- (72) To dispose of dredgings.
- (73) To authorise named officers to require owners of craft to give information of the person in charge of their craft at any time, under Schedule 5, paragraph 9.
- (74) To serve Notices under paragraphs 11 and 12 of Schedule 5 (which relate to the repair of landing places etc and the removal of wrecks etc) and to enforce such Notices. In the case of the removal of wrecks, this is subject to such vessels being raised and removed to a place of safety allowing an owner to be given prior notice to destruction, unless it had to be destroyed in situ as a result of its size and/or position.
- (75) To mitigate oil pollution either as the harbour authority or if necessary as an agent for the Environment Agency.
- (76) To discount cargo tolls.
- (77) Deleted.
- (78) In respect of the Speed Limit Byelaws 1992:
 - (i) to approve registration marks for vessels.
- (79) In respect of the Navigation Byelaws 1995:
 - (i) giving consent or approval to the following activities and imposing conditions on those consents or approvals:
 - (a) towing;
 - (b) the use of blue lights and light signals;
 - (c) stern on or bow on mooring, approving places for such mooring and designating times when this is permitted;
 - (d) the mooring of vessels otherwise than broadside to a bank;
 - (e) anchoring in a channel;
 - (f) the turning of vessels;
 - (g) pyrotechnics;

- (h) use of firearms;
 - (i) fun events;
 - (ii) restricting mooring at specific places;
 - (iii) prohibiting vessels to be moored abreast at specific locations, imposing conditions in respect of multiple mooring and permitting exceptions to these restrictions;
 - (iv) securing the removal of obstructions;
 - (v) authorising officers to authorise passage through Carrow Bridge;
 - (vi) giving directions in respect of precautions to be taken when loading and unloading vessels;
 - (vii) appointing assistants to the navigation officer.
- (80) In respect of the Vessel Registration Byelaws 1997:
 - (i) to request copies of registration certificates;
 - (ii) to charge a fee for replacing certificates;
 - (iii) to determine position of toll receipt on vessels;
 - (iv) to prescribe the form of a toll application and specifying the details to be included in it;
 - (v) to designate areas which private watercraft can use and prescribing the conditions for such use.
- (81) In respect of the Broads Authority Act 2009:
 - (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:
 - (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:
 - (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:
 - (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 waterskiing and wakeboarding:
 - (a) displaying directional signs (section 28(1));
 - (b) designating authorised officers for the purposes of giving directions as to waterskiing and wakeboarding (section 28(2));
 - (c) issuing, cancelling and amending permits for waterskiing and wakeboarding (sections 27 and 30);
- (ix) removing vegetation which is an obstruction or danger to vessels in the navigation area including the service of notices;
- (x) serving notices and exercising default powers in respect of vegetation which 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).

I Broads Local Access Forum

- (82) To appoint and re-appoint members to the Broads Local Access Forum, in consultation with the Chairman of the Forum.

J Miscellaneous

- (83) To remove abandoned vehicles.

- (84) To accept gifts of property on behalf of the Authority.
- (85) To approve single grant requests up to £10,000.
- (86) In consultation with the Solicitor, to approve payments of up to £5,000 to complainants who have suffered a direct identifiable loss as a result of the Authority's actions.
- (87) To write off:
 - (i) any obsolete stores or equipment, or loss of property not exceeding £5,000;
 - (ii) all bad debts to a maximum of £5,000, where all reasonable recovery action has been exhausted.
- (88) To appoint members to the Sustainable Development Fund Panel, in consultation with the Chairman of the Authority and Chairman of the Panel, in accordance with any guidelines specified by the Authority about the overall membership of the Panel.
- (89) To appoint three members of the Authority and an Independent Person as a co-opted non voting member to a Hearings Committee to hear and determine allegations of breaches of the Members Code of Conduct referred to it by the Monitoring Officer.

**Powers Delegated to the Treasurer and
Financial Adviser to the Authority**

- (1) To be responsible for the proper administration of the Authority's financial affairs in accordance with section 17 of the Norfolk and Suffolk Broads Act 1988 including:
 - (i) the regulation and control of finance, and the making of safe and efficient arrangements for the receipts of monies;
 - (ii) audit commission and internal audit matters including the appointment of auditors;
 - (iii) pension fund matters; and
 - (iv) insurances.
- (2) To make suitable arrangements for the investment and realisation of short term monies surplus to the Authority's requirements.
- (3) To operate the Authority's bank accounts including:

- (i) to arrange overdraft facilities as and when necessary and within such limits as may be approved by the Authority from time to time;
 - (ii) to arrange the opening, operation and closing of such subsidiary bank accounts as are deemed necessary for the control of, and accounting for, the Authority's money;
 - (iii) to manage the day-to-day cash resources of the Authority and arrange such temporary borrowing or investment of surplus money as is deemed necessary;
 - (iv) to negotiate and receive or repay loans subject to the receipt of the necessary government sanctions and consents.
- (4) In consultation with the Chief Executive to write off:
- (i) any obsolete stores or equipment, or loss of property not exceeding £25,000;
 - (ii) all bad debts to a maximum of £25,000 where all reasonable recovery action has been exhausted.
- (5) To borrow in accordance with the Authority's policy.
- (6) To lend in accordance with the Authority's policy.

Powers Delegated to the Solicitor to the Authority

- (1) To carry out the duties of Monitoring Officer to the Authority.
- (2) To institute and settle, as appropriate, claims and proceedings:
 - (i) for the possession of property;
 - (ii) for the recovery of fees, tolls, rent and other sums owing to the Authority;
 - (iii) in respect of other financial loss suffered by the Authority.
- (3) To defend and settle, as appropriate, civil proceedings against the Authority, in relation to claims not covered by the Authority's insurance policies.
- (4) To institute criminal proceedings relating to any function of the Authority.
- (5) To defend any criminal proceedings against the Authority.
- (6) To determine applications for Certificates of Lawful Use and for Certificates of Lawfulness of Proposed Use or Development.

- (7) To serve notices requiring information to be given as to interests in land and if necessary to institute proceedings for failure to respond.
- (8) 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:
 - (i) to issue Listed Building Enforcement Notices and Conservation Area Enforcement Notices concurrently with District Officers;
 - (ii) to issue Enforcement Notices, Stop Notices Temporary Stop Notices and Article 4 Directions;
 - (iii) to take enforcement action in respect of unauthorised advertisements.
- (9) To authorise officers who otherwise have no right of audience to appear in Magistrates Court and County Court proceedings.
- (10) 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.

APPENDIX

“Proper Officer” Provisions

		Proper Officer
1.	<u>The Norfolk and Suffolk Broads Act 1988</u>	
	Schedule 1, paragraph 2 (6)	Chief Executive
	paragraph 2 (9)	Chief Executive
	paragraph 4 (4)	Chief Executive
	paragraph 4 (5)	Chief Executive
	paragraph 5 (11)	Chief Executive
	Schedule 4, paragraph 2 (3)	Chief Executive
	paragraph 2 (4)	Chief Executive
	Schedule 5, paragraph 13 (8)	Chief Executive
2.	<u>Local Government Act 1972</u>	
	Section 100 B (2)	Chief Executive
	Section 100 B (7) (c)	Chief Executive
	Section 100 C (2)	Chief Executive
	Section 100 D (1) (a)	The officer or advisor in whose name the report is designated.
	Section 100 D (5) (a)	The officer or advisor in whose name the report is

Section 100 F (2)	Identification of exempt information not available to <u>all</u> members.	designated. Chief Executive
Section 115 (2)	Receipt of money due from officers.	Head of Finance
Section 225 (1)	Deposit of documents.	Chief Executive
Section 229 (5)	Certification of photographic copies of documents.	Chief Executive
Section 234	Signature of any notice, order or other document given, made or issued by the Authority.	The officer responsible for the exercise of the function which is the subject of the decision in question (if no such person then the Chief Executive)
Section 238	Certification of bye-laws.	Chief Executive
3. <u>Other Legislation</u>		
Listed Buildings Act 1990 Section 2	Receipt on deposit of lists of buildings of special architectural or historical interest.	Chief Executive
Local Government Act 1974, Section 30 (5)	Giving notice of reports received by the Authority from the Local Ombudsman.	Chief Executive
Local Government (Miscellaneous Provisions) Act 1976, Section 41	Certifying copies of resolutions, orders, reports and minutes of the Authority.	Chief Executive

In each case, if the designated Proper Officer is not available to exercise the function then either the Director of Operations or the Director of Planning and Resources will act as the Proper Officer.

26 September 2014

Extract of Minutes from Broads Authority meeting - 15 May 2015

6/14 Annual Report on Requests to Waive Standing Orders Relating to Contracts

The Authority received a report providing an annual summary of the six instances where the Chief Executive had authorized the waiving of the Standing Orders for Contracts during 2014/15 together with the details of the reasons for doing so which were due to cases of extreme urgency, or where there was only one supplier or in certain other circumstances where specialists of specialist equipment might be required with the aim of achieving the best outcome for the Authority at the best possible price. Members noted that fewer waivers had been approved in this last year than in the previous year and that in cases involving larger sums, the Chair and Vice-Chair of the Authority, as well as the Chairman of the FSAC and Navigation Committee had been consulted.

RESOLVED

- (i) that the annual report of instances where Standing Orders have been waived be noted;
- (ii) that the action taken by Chief Executive in respect of the waiver of Standing Orders for the purchase of unifloats and spudlegs be supported; and
- (iii) that the Financial Scrutiny and Audit Committee consider an appropriate upper limit for the delegation on such waivers.

Standing Orders relating to Contracts

Request for Approval to waive Standing Orders

The Authority's Standing Orders relating to Contracts require that:

- for contracts where the estimated value is below £5,000, it is good practice but not mandatory to obtain more than one quotation;
- for contracts between £5,000 and £25,000, three written quotations must be received;
- for contracts above £25,000, a quotation must be sought by means of a public notice in one or more local newspapers, unless the tender is limited to a Standing List of contractors which has already been set up for certain purposes; and
- in all cases for contracts of £5,000 and above, the Authority must accept the most financially advantageous quotation.

There are a number of exceptions to these Standing Orders which include:

- where the Chief Executive certifies that there is an extreme urgency. In such cases the Chairman or in the Chairman's absence Vice-Chairman of the appropriate committee must be consulted;
- where there are only one or two suppliers for the supply of goods or services, and no other acceptable alternatives;
- for extensions to existing contracts, providing that the variation is not more than 10% of the original contract sum; and
- where it is not considered reasonably practicable, or in the interests of the Authority, to comply with Standing Orders, subject to a report to the next meeting of the appropriate committee.

(This is not a comprehensive list. The full list of exemptions is set out in the Standing Orders relating to Contracts).

The Chief Executive has delegated powers to approve exemptions as set out above. All requests must be set out on the attached form which should be completed (including the comments of the appropriate director) and submitted to the Director of Corporate Services (or in his absence the Head of Finance). All exemptions will be reported to the Broads Authority.

Other requests for approval to waive Standing Orders, which the Chief Executive does not have delegated powers to approve, must be considered by the Broads Authority or appropriate committee.

The attached form must be used for all requests to waive Standing Orders, as summarised above, including for all orders over £5,000 for which less than three quotes are sought.

Request for Approval to waive Standing Orders

Details of project/work to be carried out:

Estimated cost (exclusive of VAT):

Budget line:

Proposed supplier/provider:

Reasons for seeking approval to waive Standing Orders:

Submitted by:

Date:

Comments of appropriate Director

Comments of Director of Corporate Services/Head of Finance:

Is consultation with the Chairman/Vice-Chairman of the appropriate committee required?

Does this need to be reported to the Broads Authority or appropriate committee?

Comments of Chief Executive:

Request approved:	Yes/No
-------------------	--------

Date:
