

Delegations and Authorisations Policy



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Service Unit	Democratic Support & Corporate
Directorate:	Governance Office of the CEO
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1. Purpose

Many Acts confer a responsibility on Councils to take action, determine matters and make decisions. For Councils to function effectively, decision-making must be delegated from central sources of authority to other levels of the organisation. This policy sets out how Moorabool Shire Council establishes and manages delegations and authorisations to achieve the best and most efficient results for the Moorabool community.

2. Definitions

Authorisation	The authorisation of a person to exercise specified statutory powers.
Authorised Officer	A Council member or staff who is named as an Authorised Officer for the purpose of a specific Act or Acts.
CEO	Chief Executive Officer
Conflict of Interest	Has the same meaning as that contained in LGA 2020.
Council	Moorabool Shire Council.
Decision	A binding decision made by or on behalf of Council.
Delegation	The conferral of an authority to a position to exercise a power, duty or function on behalf of Council.
Instrument of Appointment and Authorisation	A document that appoints an officer to a statutory position. Once the person is authorised and appointed by Council, that person has the powers of that statutory position.
Governance Team	Democratic Support and Corporate Governance.
Instrument of Delegation	A document that delegates certain powers, duties and functions to a position holder who then acts as a delegate on behalf of Council.
Integrity	Maintaining behaviour that is consistent with standards for professional and ethical conduct.

LGA 1989	Local Government Act 1989.
LGA 2020	Local Government Act 2020.
MBS	Municipal Building Surveyor.
MFPO	Municipal Fire Prevention Officer.
RelianSys	Software utilised by Council for the generation, management and hosting of Instruments.

3. Scope

This policy applies to Moorabool Shire Council and any instruments of delegation and/or authorisation established by Council, the Chief Executive Officer and the Municipal Building Surveyor under the Local Government Act 2020 and any other Acts.

Delegation instruments are not the source of all delegated authority. Actions (not decisions) may be taken by Council staff under implied authority arising from position descriptions, policies, procedures, schedules, guidelines and practices. Decisions made under a delegated authority or authorisation can only be performed by the position the delegated authority or authorisation is responsible for.

4. Background

4.1. Delegations

Councils have wide-ranging responsibilities, and are given powers, duties and functions under different pieces of legislation. It is impossible for Council, the elected officials, to exercise all these powers, duties and functions due to needing to pass a Council resolution each time it wished to act. For day-to-day operations, Council needs staff to make decisions and act on its behalf. Council delegates powers to the Chief Executive Officer (CEO) and to Council Staff and the CEO delegates powers to Council Staff through individual instruments.

Delegating Council's powers, duties and functions is essential to fulfilling the responsibilities of local government. When Council delegates a power, duty or function to a member of staff or to a committee, the decision of the delegate is deemed to be a decision of Council.

4.2. Authorisations

Council can appoint a person, other than a Councillor, to a statutory position as an Authorised Officer under a particular piece of legislation. Once a person is appointed as an Authorised Officer, that person has the statutory powers to take action, make decisions or exercise powers of a statutory position. An Authorised Officer administers and enforces legislation, regulation and local laws relating to functions within Council.

This differs from a delegation which involves Council conferring powers, duties and functions to members of staff or delegated committees, who then act on behalf of Council. Persons appointed or authorised by Council are acting as holders of statutory powers. It is possible, however, for a member of staff to hold delegations in addition to being an Authorised Officer holding statutory powers.

4.3. Instruments

Instruments of Delegation refer to positions or position groups (e.g. Manager Operations or All Managers) but will not directly reference an individual by name. This is to allow for staff movement changes without disruption to the effect of existing instruments.

Instruments of Appointment and Authorisation must refer to individuals and may also reference their position (e.g. John Smith, Manager Operations).

A list of Council's instruments is provided below:

Instrument Title		Description	Sign-off / adoption
S5	Instrument of Delegation from Council to the CEO	This delegates all of Council's powers, duties and functions which are capable of delegation, subject to some exceptions and limitations, to the CEO.	Council
S6	Instrument of Delegation from Council to members of Council Staff	This relates to Council powers, duties and functions within various Acts and Regulations, or specific parts of Acts and Regulations, which contain a specific power of delegation. This delegates certain powers directly from Council to Council staff due to the legislation referred to containing specific powers of delegation.	Council
S7	Instrument of Sub-Delegation from CEO to Council Staff	This sub-delegates Council powers, duties or functions contained in Acts or Regulations which do not include a specific power of delegation.	CEO
S11	Instrument of Appointment and Authorisation	This Instrument appoints officers to be authorised officers for the administration and enforcement of specific Acts.	CEO
S12	Instrument of Delegation from the Municipal Building Surveyor to relevant Council Staff or Contractors	This relates to the delegation of powers, duties and functions of the MBS to a member of Council staff or someone acting on behalf of Council.	MBS
S13	Instrument of Delegation from CEO to Staff	This instrument allows the CEO to delegate their powers, duties and functions existing under all Victorian legislation. This differs to the S7 Instrument in that it doesn't relate to Council powers, duties and functions, but those vested in the CEO personally.	CEO

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S14	Instrument from CEO to Staff (VicSmart)	This provides for the CEO to delegate their powers as a responsible authority under the Planning & Environment Act 1989 in relation to VicSmart planning applications.	CEO
S18	Instrument of Sub-Delegation from Council to Members of Council Staff under the Environment Protection Act 2017	This Instrument sub-delegates Council's powers, which are delegated to Council by the EPA, to members of Council staff.	Council
S18A	Instrument of Sub-Delegation from the CEO to Members of Council Staff under the Environment Protection Act 2017.	This Instrument sub-delegates powers, which are delegated to the CEO by the EPA, to members of Council staff.	CEO
	Instrument of Appointment and Authorisation – Planning and Environment Act 1987	This Instrument appoints officers to be authorised officers for the administration and enforcement of the Planning and Environment Act 1987.	Council
	Instrument of Delegation - MFPO	This Instrument sub-delegates powers from the Municipal Fire Prevention Officer to Assistant Municipal Fire Prevention Officer(s).	MFPO
	Instrument of Delegation – Development Assessment Committee	This instrument gives Committee members specific powers and functions regarding planning applications made under the Planning and Environment Act 1987.	Council

5. Non-Compliance

A Council officer exercising delegations and/or authorisations which they knowingly do not hold may lead to disciplinary action (including dismissal) and/or action by the relevant regulatory authorities.

Should a Council Officer become aware they do not hold the appropriate delegation(s) and/or authorisation(s), they must advise their manager as soon as reasonably practicable and cease any action in relation to the matter until further direction is given by their manager.

In instances where an employee was not aware of a change/revocation of a delegation or authorisation, the Governance Team will perform a risk assessment of actions undertaken during the period in which the employee did not have authority or power to act.

6. Policy

6.1. Delegations

6.1.1. All delegations of Council powers, duties and functions must be recorded in a written Instrument of Delegation. The delegation is made to a position or group of positions. Individual names are not listed in the instrument.

6.1.2. Delegation to a position extends to persons acting in or temporarily holding that position. Acting arrangements are to be documented in writing (including by email correspondence) to ensure the transfer of delegated authority is verifiable and can be produced should a future need be required.

If a position is amended or eliminated, the delegation(s) of that position will automatically be conferred to the position whose functions most closely align with the amended or eliminated position until the relevant instrument(s) are updated.

6.2. Authorisations

6.2.1. An appointment as an Authorised Officer must be recorded in a written Instrument of Appointment and Authorisation. The appointment is made to an individual by name. Their position may be listed however is not mandatory.

6.2.2. Authorised Officers will be issued and carry an identity card as set out by section 224(2) of the LGA 1989.

6.3. Manager Obligations

6.3.1. Managers are responsible for ensuring staff under their supervision, including new staff members and staff in acting position arrangements, are appointed and authorised /delegated to perform the powers, duties and functions required of their position and/or authorisation.

6.3.2. Managers must make requests for amendments to existing authorisations and delegations to the Governance Team prior to staff commencing in their role.

6.3.3. Managers must ensure that individuals appointed as Authorised Officers and/or staff in positions holding delegations possess the requisite skills, qualifications or experience consistent with the functions required.

6.4. Integrity

6.4.1. Staff holding delegation(s) or who are Authorised Officers should be familiar with the powers, duties and functions issued to them and ensure that decisions or actions taken are within their power to make. Instruments are hosted on Document Hub on the Intranet. If this remains unclear to the staff member, they must contact their manager as soon as practicable and cease any action on the issue until further direction is provided by their manager.

6.4.2. In exercising a power, duty or function, staff holding delegation(s) or who are Authorised Officers must comply with all conditions and limitations of a delegation or authorisation, relevant legislation, resolutions of Council and all Council policies and procedures.

6.4.3. Staff holding delegation(s) or who are Authorised Officers:

- 6.4.3.1. must act impartially and with integrity at all times when making decisions.
- 6.4.3.2. are responsible and accountable for any decisions made under those delegations and/or authorisations.
- 6.4.3.3. are required to be able to justify decisions or actions. Staff must ensure decisions made under delegation are appropriate, fair and documented appropriately.
- 6.4.3.4. must not exercise authority beyond the scope of their delegation and/or authorisation. Any decisions made beyond the scope of a staff member's delegation and/or authorisation will result in that decision being invalid and may potentially expose Council to litigation.
- 6.4.3.5. must maintain awareness of, and immediately disclose, any perceived or material conflicts of interest that may arise in exercising their delegations. The staff member must disclose the conflict of interest to their manager and the Governance team and immediately cease any action in relation to the matter.

6.5. Instrument Management

- 6.5.1. Executed Instruments will be held by the Governance Team and copies be made available to staff through Document Hub.
- 6.5.2. An instrument remains in effect until a new instrument, which expressly revokes all prior versions of the instrument, is executed.
- 6.5.3. Council uses RelianSys to manage and generate Instruments. This ensures consistency across instruments, a central location to house working documents and automatic feeding of legislative updates into working documents. RelianSys is also utilised by Council to manage compliance activities.

6.6. Instrument Review

- 6.6.1. Instruments will be reviewed by the Governance team every six months with input from Managers and the Executive Leadership Team, in line with the release of legislated updates provided by RelianSys.
- 6.6.2. Review of Instruments of Delegation will consider:
 - (a) whether a new item of legislation should be delegated, and to which position(s)
 - (b) wording changes to an item of existing legislation
 - (c) revocation of an item of existing legislation
 - (d) Any position, position group or directorate name changes since the last update
- 6.6.3. If changes are required, a draft Instrument must be distributed to Managers and the Executive Leadership Team for requested changes prior to seeking CEO sign-off or Council adoption where applicable.

6.6.4. Review of an instrument may occur outside of this cycle if deemed required by Executive Manager Democratic Support & Corporate Governance or the Executive Leadership Team.

6.7. Instrument Register

6.7.1. The Governance team must maintain an Instrument Register (see Appendix 1), which includes a signed copy of each Instrument, as well as:

- (e) The Instrument name and type
- (f) Type of review conducted (within cycle/outside of cycle)
- (g) The date of Instrument execution
- (h) Who the Instrument was signed-off or adopted by i.e. CEO or Council
- (i) If any non-material changes were made, and if so, list the changes (see section 6.8)

This ensures Council has an accurate account of the delegations, appointments and authorisations that were held at any given point in time and satisfies the requirement to do so under section 47(7) of LGA 2020.

6.8. Non-material Instrument Amendments

6.8.1. Minor, administrative and non-material changes to Instruments can be made without requiring sign-off or adoption by the applicable authority, with the approval of the Executive Manager Democratic Support & Corporate Governance. Examples of non-material changes include but are not limited to:

- (a) Position title change (e.g. Coordinator Revenue Services to Coordinator Revenue)
- (b) Directorate name change which impacts position titles
- (c) Name change (this should be evidenced by sighting documentation such as a marriage certificate, birth certificate or change of name certificate)

7. Related Legislation and Policies

- Local Government Act 1989
- Local Government Act 2020
- Conflict of Interest
- Governance Framework
- Fraud and Corruption Prevention and Control System
- Risk Management Framework
- Risk Management Policy
- Statutory Compliance Framework
- Statutory Compliance Policy

8. Council Plan Reference

Objectives: A Council that listens and adapts to the needs of our evolving communities.
Context: Be recognised for demonstrating a culture of excellence, creativity and inclusiveness.

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9. Review

As a minimum, the Delegations and Authorisations Policy will be reviewed every second year.

10. Appendices

- Appendix 1 – Instrument Register

