

RESPONSIBILITY FOR FUNCTIONS

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Responsibility for Functions

GENERAL

1. All of the Council's functions are the responsibility of either : -
 - (a) Full Council; or
 - (b) The Executive (the Cabinet)

The Council operates a Leader and Council form of Executive, collectively this means references to the Executive means the Leader and Cabinet.

2. Functions which are the responsibility of Full Council may be delegated to a Committee, a Sub-Committee, an Officer or another local authority.
3. Functions which are the responsibility of the Executive may be delegated to a Committee of the Executive, an individual Member of the Executive (Cabinet), an Officer or another local authority.
4. The law provides a framework under which :-
 - (a) some functions must not be the responsibility of the Executive;
 - (b) some functions must be the responsibility of the Executive; and
 - (c) some functions may or may not be the responsibility of the Executive.

The latter are known as 'local choice functions', and it is a requirement that this Constitution sets out in detail who is responsible for them. A list of local choice functions is detailed at the end of this section.

5. Any reference in this part of the Constitution to any function, and any delegation of power includes all action associated with that function or power and all related enforcement action.
6. This part of the Constitution defines the respective responsibilities of the Council and the Executive, and explains the arrangements for delegation of these responsibilities.

FUNCTIONS OF THE FULL COUNCIL (i.e. functions which cannot be the responsibility of the Executive)

7. In accordance with the procedures contained within the Budget and Policy Framework Procedure Rules, as detailed in this Part of the Constitution, the Council is responsible for the determination of:-
 - (a) the budget;
 - (b) the policy framework (see below); and
 - (c) the constitutional and related functions.

8. The Council Policy Framework comprises the following Plans and Strategies:-

Mandatory

Early Years and Childcare Strategic Plan
Children and Young People Plan
Education Development Plan
Sustainable Community Strategy
Crime and Disorder Reduction Strategy
Local Transport Plan
Youth Justice Plan
Annual Library Plan

Discretionary

Adult Learning Plan
Food Law Enforcement Plan
Corporate Plan
Treasury Management Strategy

DELEGATION OF FUNCTIONS BY THE COUNCIL

9. The Council has delegated some of its functions to the Planning Applications Committee, Licensing Committees, the Standards Committee, the Audit Committee; the Appointments Committees/Appointments Panel and the Rights of Way Panel. Further details of these delegations can be found in the Schedule 1 of this Section.
10. The Council delegates to Officers, the non-executive functions which are contained in the Officers Delegation Scheme. Powers delegated to Officers by Council show 'Council' in the final column.
11. The delegation of these powers operates under Section 101 of the Local Government Act 1972 and all other powers enabling the Council.
12. The non-executive powers delegated to Officers are set out in the Officers Delegation Scheme.
13. Insofar as the making of appointments to outside bodies is a function of Full Council, the Council agrees that those appointments should be made as set out in Schedule 5 of this Section.

FUNCTIONS OF THE EXECUTIVE

14. All other functions are the responsibility of the Executive and are not to be discharged (or delegated) by the Council.
15. The Executive (directly or by delegating its powers as described below) has the following functions and responsibilities :-
- (a) proposing the budget to Full Council, including preparation of estimates and the amount of the proposed precept, and any reconsideration or revision of those estimates and amounts;

- (b) proposing to Full Council new policies (or amendments to existing policies) which fall within the Policy Framework;
 - (c) adopting on behalf of the Council any plans or strategies which do not form part of the Policy Framework;
 - (d) implementing and delivering the agreed budget and Policy Framework;
 - (e) taking all decisions other than those referred to in paragraph 2 above;
 - (f) responsibility for local choice functions to the extent indicated in the table below;
 - (g) discharging the Council's responsibilities as an employer for health and safety; and
 - (h) making appointments to outside bodies in connection with functions which are the responsibility of the Executive.
16. All plans and strategies falling within the policy framework shall be considered by the Executive, who shall recommend them to Full Council. However, it is for Full Council to :-
- (a) instruct the Executive to reconsider any draft plan or strategy;
 - (b) amend any draft plan or strategy submitted by the Executive;
 - (c) approve for public consultation proposals for alterations to, or the replacement of, the Development Plan;
 - (d) approve any plan or strategy for submission to government (where required); and
 - (e) adopt any plan or strategy with or without modification.

Apart from the above, all functions in relation to developing plans and strategies falling within the policy framework shall be performed by the Executive.

17. The function of amending, modifying, varying or revoking any plan or strategy falling within the policy framework shall be performed by the Executive :-
- (a) if it is required for giving effect to governmental requirement; or
 - (b) if it was authorised by Full Council when approving or adopting the plan or strategy;
- but otherwise that function shall be performed by the Council.

DELEGATION OF FUNCTIONS BY THE EXECUTIVE

18. The delegation of functions by the Executive is set out in Schedule 2 to this Part of the Constitution. Delegations of Executive powers are under S15 Local Government Act 2000.

TABLE: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

19. The law provides a framework under which :-

- (a) some functions must be the responsibility of the Executive;
- (b) some functions must not be the responsibility of the Executive; and
- (c) some functions may or may not be the responsibility of the Executive.

The latter are known as ‘local choice functions’, and it is a requirement that this Constitution sets out in detail who is responsible for them.

Function	Responsibility	Delegation
1. Any function under a local Act other than a function which is specified must not be an Executive function.	Cabinet	The Chief Executive shall decide which is the most appropriate body as and when the need arises.
2. The determination of an appeal against any decision made by or on behalf of the Authority	Council Cabinet	Human Resource Panel in relation to employee matters. Cabinet in respect of all other matters.
3. The appointment of Review Boards under regulations under sub-section (4) of Section 34 (determination of claims and reviews) of the Social Security Act 1998(a).	Council	Council.
4. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools.	Council	The Borough Solicitor.
5. The making of arrangements pursuant to sections 94(1), (1A) and (4) of the Schools Standard and Framework Act 1998 (admission appeals).	Council	The Borough Solicitor.
6. The making of arrangements pursuant to section 95(2) of the Schools Standard and Framework Act 1998 (Children to whom section 87 applies: appeals by governing bodies).	Council	The Borough Solicitor.
7. The making of arrangements Section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Council	The Director of Corporate Services.

Function	Responsibility	Delegation
8. The making of appointments under paragraph 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Council	Council.
9. This function has been revoked.		
10. Any function relating to contaminated land.	Cabinet	Cabinet or the Director of Corporate Services in accordance with the Officers Scheme of Delegation.
11. The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Cabinet or the Director of Corporate Services in accordance with the Officers Scheme of Delegation.
12. The service of an abatement notice in respect of a statutory notice.	Cabinet	Director of Corporate Services in accordance with the Officers Scheme of Delegation.
13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Cabinet	Cabinet.
14. The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Director of Corporate Services in accordance with the Officers Scheme of Delegation.
15. The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Director of Corporate Services in accordance with the Officers Scheme of Delegation.
16. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet	Director of Corporate Services in accordance with the Officers Scheme of Delegation.
17. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet	Director of Corporate Services in accordance with the Officers Scheme of Delegation.
18. The making of agreements for the execution of highways works.	Cabinet	Director of Community Services in accordance with the Officers Scheme of Delegation.
19. The appointment of any individual - (a) To any office other than an office in which he is employed by the authority.	Cabinet	The Chief Executive.

Function	Responsibility	Delegation
(b) To any body other than - <ul style="list-style-type: none"> (i) the authority; (ii) a joint committee of two or more authorities; or (c) To any committee or sub-committee of such a body and the revocation of any such appointment.		
20. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Cabinet	Chief Executive.
21. Any function of a local authority in its capacity as harbour authority (to the extent that the function does not fall within paragraph 1 of this Schedule).	Cabinet	Not applicable.
22. Functions under sections 106, 110, 111 and 113 of the 2007 Act relating to local area agreements	Council	Cabinet

DELEGATION OF FUNCTIONS BY THE EXECUTIVE

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