

RESPONSIBILITY FOR FUNCTIONS

Contents

General

Functions of the Full Council

Functions of the Executive

Table: Responsibility for Local Choice Functions

Delegation of Functions by the Council

Delegation of Functions by the Executive

Schedule 1 - Council Committees, their membership and their powers.

Schedule 2 - The Executive.

Schedule 3 - Membership of Scrutiny Committees.

Schedule 4 - Officers' Scheme of Delegation.

Schedule 5 - Appointments to Outside Bodies by Council and Cabinet.

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)
2. The Council operates a Leader and Cabinet model of Executive decision making. References to the Executive means the Leader and Cabinet.
3. Functions which are the responsibility of Full Council may be delegated to a Committee, a Sub-Committee, an Officer or another local authority.
4. The Council may also establish joint arrangements with one or more local authorities to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
5. 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. Any functions which may have been delegated to another Authority/Body are detailed in Schedule 2.
6. The Executive may also establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out in paragraph 6 below, or as permitted or required by law, the Executive may only appoint Executive Members to such joint committees and those Members need not reflect the political balance of the Council as a whole. Any joint arrangements which have been established are detailed in Schedule 2.
7. The Executive may appoint Members to a joint committee from outside the Executive where the joint committee has functions for only part of the area of the Council, and that area is smaller than two-fifths of the Borough by area or population. In such cases, the Executive may appoint to the joint committee any Councillor who is a Member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
8. 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.
9. The latter, (7(c)), 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.

10. 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.
11. 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)

12. In accordance with the procedures contained within the Budget and Policy Framework Procedure Rules and 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.

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

Mandatory

Children and Young People Plan

Council Plan

Community Safety Plan

Licensing Authority Policy Statement

Local Plan Core Strategy - plans and strategies that comprise the Local Transport Plan

Medium Term Financial Plan

Youth Justice Plan

Discretionary

Child Poverty Strategy

Economic Strategy

Environment Strategy

Health and Well Being Strategy

Housing Strategy

Leisure Strategy (Sport and Physical Recreation)

Organisational Development Strategy

Transport Strategy

Treasury Management Strategy

Library Plan

DELEGATION OF FUNCTIONS BY THE COUNCIL

14. The Council has delegated some of its functions to the Planning Applications Committee, Licensing Committees, the Member Standards Hearing 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.
15. 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.

16. The delegation of these powers operates under Section 101 of the Local Government Act 1972 and all other powers enabling the Council.
17. The non-executive powers delegated to Officers are set out in the Officers Delegation Scheme.
18. 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

19. All other functions are the responsibility of the Executive and are not to be discharged (or delegated) by the Council.
20. 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 (within the discretions agreed for the time being by Council);
 - (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.
21. 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.

22. 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

23. The delegation of functions by the Executive is set out in Schedule 2 to this Part of the Constitution. Delegations of Executive powers are made under Section 15 of the Local Government Act 2000.

TABLE: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

24. 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 or any complaint made against the authority	Council Cabinet	Human Resource Panel in relation to employee matters. Assistant Director Law and Governance in relation to other matters.
3. The making of arrangements for appeals against the exclusion of pupils from maintained schools.	Council	Assistant Director Law and Governance
4. The making of arrangements for School Admission Appeals.	Council	Assistant Director Law and Governance
5. The making of arrangements for appeals by governors against the authority's decision to admit a child who has previously been excluded.	Council	Assistant Director Law and Governance
6. The making of arrangements for enabling questions to be put to the Police, Crime and Victims Commissioner on the discharge of policing functions.	Council	Assistant Director Law and Governance
7. The making of appointments to the Police and Crime Panel.	Council	Council
8. (1) Matters relating to the serving and enforcing of notices in the discharge of functions relating to contaminated land. (2) Any matter relating to contaminated land except (1) above.	Cabinet	Cabinet or the Executive Director of Economy and Public Protection in accordance with the Officers Scheme of Delegation.

Function	Responsibility	Delegation
9. The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Cabinet or the Executive Director of Economy and Public Protection in accordance with the Officers Scheme of Delegation.
10. The service of an abatement notice in respect of a statutory notice.	Cabinet	Executive Director of Economy and Public Protection in accordance with the Officers Scheme of Delegation.
11. 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
12. The inspection of the authority's area to detect a statutory nuisance.	Cabinet	Executive Director of Economy and Public Protection in accordance with the Officers Scheme of Delegation.
13. The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Executive Director for Environment, Highways and Community Services, and the Executive Director for Economy and Public Protection, in accordance with the Officers Scheme of Delegation.
14. The obtaining of particulars of persons interested in land under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet	Executive Director for Environment, Highways and Community Services, and the Executive Director for Economy and Public Protection, in accordance with the Officers Scheme of Delegation.
15. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet	Executive Director for Environment, Highways and Community Services, and the Executive Director for Economy and Public Protection, in accordance with the Officers Scheme of Delegation.

Function	Responsibility	Delegation
16. The making of agreements for the execution of highways works.	Cabinet	Executive Director of Environment, Highways and Community Services in accordance with the Officers Scheme of Delegation.
17. The investigation of any complaint against Members in accordance with Section 28 of the Localism Act 2011 and the determination of whether the matter should be referred to the Member Standards Hearing Committee.	Council	Assistant Director Law and Governance
18. The appointment of any individual - (a) To any office other than an office in which he is employed by the authority. (b) To any body other than - (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.	Cabinet	Chief Executive
19. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Cabinet	Chief Executive

DELEGATION OF FUNCTIONS BY THE EXECUTIVE

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

TEES VALLEY COMBINED AUTHORITY

26. On 1 April, 2016, the Tees Valley Combined Authority Order 2016 established a Combined Authority for the combined area of the constituent councils (Darlington; Hartlepool; Middlesbrough; Redcar and Cleveland and Stockton-on-Tees). The Combined Authority has taken on responsibility for some functions from central government for transport, infrastructure, skills, business investment, housing culture and tourism. It also has some transport functions delegated from the five constituent Councils.
27. The Combined Authority is led by an elected Mayor who chairs a Cabinet comprised of the Leaders (in the case of Middlesbrough Council the elected Mayor) of the five Tees Valley Councils.
28. Further information about the Combined Authority is available from the website <https://teesvalley-ca.gov.uk/>