

# Responsibility for Functions

*Source: This part is required under Article 4 and Article 7 of this Constitution; Section 13, Local Government Act 2000, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended); The Local Government Act 2000 (Constitutions) (England) Direction 2000 & takes into account the Secretary of State's Guidance, Chapter 5.*

## 1 Responsibility for Council Functions

1.1.1 **Regulations:** Functions which must not be the responsibility of an authority's executive from the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 SCHEDULE 1 Regulation 2(1)

1.1.2 **Explanation:** The law requires the following functions must be the responsibility of Full Council and not the Executive.

1.1.3 The Full Council can discharge these functions itself or may delegate one or more functions to a committee or sub-committee of Councillors, an officer of the Council or another authority. The Full Council may always exercise powers it has delegated to the other bodies or persons set out above. It may also discharge its functions jointly with one or more other Councils.

1.1.4 Delegations to Officers are listed in this Part, the Articles and the terms of reference of committees in this Constitution.

1.1.5 Delegation is a simple way of allocating matters to an appropriate level so that the Full Council's functions are dealt with in an efficient and effective way.

**TABLE 1 – Responsibility for Council Functions**

<b>Function</b>	<b>Decision making body</b>
Functions relating to elections as listed in Section D of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council, which has made delegations to Officers within this Constitution and the Council's scheme of delegation.
Functions relating to name and status of areas or individuals as listed in Section E of Schedule 1 to the Regulations and as may be amended by law from time to	The Council

Function	Decision making body
time	
Functions relating to making, amending, revoking or re-enacting byelaws as listed in section F of Schedule 1 to the Regulations.	The Council
Functions relating to promoting or opposing local or personal Bills as listed in section G of Schedule 1 to the Regulations	The Council
Functions relating to local government pensions as listed in Section H. of Schedule 1 to the Regulations	The Council
Miscellaneous functions as listed in section I. of Schedule 1 to the Regulations and as may be amended by law from time to time (e.g. the power to make standing orders, the power to appoint staff, the power to appoint statutory officers 'proper officers')	The Council
All other non-executive functions (subject to the arrangements listed below and elsewhere in this Constitution)	The Council being made up of all elected Councillors and with the power to delegate to Committees, subcommittees or officers.
Functions relating to town and country planning and development control as listed in section A. of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council has delegated powers to the Planning Committee. The Committee has made delegations to Officers, which are included within its terms of reference and the scheme of delegation.
Functions relating to licensing and registration as listed in section B. of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council has delegated powers to the Licensing Act 2003 and Gambling Act and Licensing (General) Committees. The Committees have made delegations to officers, which are included within their terms of reference and the scheme of delegation.
Functions relating to Health and Safety at	The Council has delegated powers to the

Function	Decision making body
work as listed in Section C of Schedule 1 to the Regulations and as may be amended by law from time to time	Licensing Act 2003 and Gambling Act and Licensing (General) Committees. The Committees have made delegations to officers, which are included within their terms of reference and the scheme of delegation.
Functions relating to Community Governance as listed in Section EB of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council
Functions relating to smoke free premises as listed in Section FA to Schedule 1 to the Regulations and as may be amended by law from time to time	The Council has delegated powers to the Licensing Act 2003 and Gambling Act and Licensing (General) Committees. The Committees have made delegations to officers, which are included within their terms of reference and the scheme of delegation.

## 2 Responsibility for Local Choice Functions

2.1.1 **Regulation:** These are functions which may be (but need not be) the responsibility of an authority's Executive (i.e. the Executive) identified in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 2, Regulation 3(1).

2.1.2 **Explanation:** These functions are sometimes called Local Choice Functions because the Council can decide whether the Executive should or should not be the decision making body. The Council has allocated these functions as follows:

**TABLE 2 – Responsibility for Local Choice Functions**

Functions from Schedules 2 Reg 3(1)	Decision making body
1. Any function under a Local Act	The Executive
2. Determining an appeal against any decision made by or on behalf of the authority where there is a right of appeal to a Council Committee. (This	The Council

excludes matters where statutory arrangements exist).	
3. The appointment of housing benefit review boards.	Not applicable
4-6. Do not apply as these functions relate to education authorities.	Not applicable
7-8. Do not apply because these functions relate to Police Authorities	Not applicable
9. Conducting best value reviews (Repealed after 30 December 2007)	Not applicable
10. Any function relating to contaminated land	The Council
11. Any function relating to the control of pollution or the management of air quality	The Council
12. Any function relating to the abatement of statutory nuisances	The Council
13. Any function relating to noise nuisances	The Council
14. Powers of inspection to detect statutory nuisances	The Council
15. Investigation of complaints of statutory nuisances	The Council
16. Power to obtain information about interests in land under the Town & Country Planning Act 1990 (sec.330)	The Council
17. Power to obtain information about persons with interests in land under Local Government (Miscellaneous Provisions) Act 1976	The Council
18. Highways agreements	The Council
19. Appointments to external bodies and the revocation of such appointments.	The Council/The Executive
20. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	The Executive
21. Any function of a local authority in their capacity as a harbour authority and Coast Protection Authority	The Council
22. Powers in respect of the Council's Local Area Agreement under sections 106,110, 111 and	The Executive

### 3 Responsibility for Executive Functions

3.1.1 The Local Government Act 2000 (as amended) provides that all functions of a local authority, except (a) those specified by law or in this Constitution as non-executive functions shall be discharged by the Executive.

3.1.2 The Executive shall consist of an Executive Leader (the Leader) appointed by Full Council and 2 to 9 elected members (the Executive) appointed by the Leader. The Executive will be known collectively as the Executive.

3.1.3 The Leader shall appoint one Executive member as Deputy Leader. The Deputy Leader will be able to exercise the powers of the Leader of the Council if:

- a) the Leader is unable to act or
- b) the office of Leader of the Council is vacant.

3.1.4 If both the Leader and Deputy Leader are both unable to act, the Executive as a whole must exercise the Leader's powers or arrange for a member of the Executive to act in his/her place.

3.1.5 The Leader shall determine how all executive powers shall be discharged. The Leader may:

- a) discharge any of those functions; or
- b) arrange for the discharge of any of those functions:
  - i. by the Executive collectively,
  - ii. by another member of the Executive,
  - iii. by a committee of the Executive, or
  - iv. by an officer of the Authority.

3.1.6 Executive functions may also be discharged by another arrangement allowed by law including by another authority, by an area committee or jointly with one or more other authorities.

3.1.7 The Monitoring Officer will maintain and publish a record of all arrangements made under this Part including but not limited to a list of Executive members, their

responsibilities and delegated powers. Where appropriate, the Council's scheme of delegation may set out these arrangements.

## **4 Delegations to Officers**

### **4.1 Introduction**

4.1.1 For the purposes of this section, the officers to whom delegations are made are as follows:

- Chief Executive and Statutory Officers
- Heads of Functions and Directors
- Other Staff
- Proper Officers for the purposes of specific legislation (as set out below) and as defined by section 270(3), Local Government Act 1972.

4.1.2 The delegations set out below apply to those functions which have not, by virtue of this Constitution or any other instrument, been reserved to Council or Executive and any committees or sub-committees thereof.

4.1.3 Delegations set out in this section are in addition to any delegations made in the Articles, and/or the Terms of Reference, of this Constitution.

### **4.2 Powers of the Chief Executive**

4.2.1 To exercise authority over the Heads of Functions and Directors, including allocating Heads of Functions' and Directors' portfolios.

4.2.2 To exercise the powers delegated to any Head of Function, Director or other members of staff so far as the law allows.

4.2.3 To carry out the functions of the Council for civic aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the Council's area.

4.2.4 To undertake any other functions necessary for the carrying out of the role of Chief Executive, within any existing legislative and policy constraints.

### **4.3 Powers of the Heads of Functions and Directors**

4.3.1 The Heads of Functions and the Directors for the Council and their areas of

responsibility are referred to in Article 12 of this Constitution. In this Constitution, the term Heads of Function and Director includes any officer who reports directly to the Chief Executive.

4.3.2 All Heads of Functions and Directors are delegated all those powers necessary to act within the assigned portfolio of responsibilities, as set out in Article 12 and the appendix to this Constitution. Note that this delegation is subject to the general provisions and limitations set out in this Constitution.

4.3.3 A Head of Function or Director may further delegate or authorise any of the powers delegated to him or her under this Constitution or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of this Constitution. A formal scheme of delegation or authorisation will be maintained within each Function Area. Any such scheme of delegation or authorisation must be:

- Recorded in writing; and
- Lodged with the Monitoring Officer who will keep a record of all delegations

#### **4.4 Powers of Staff**

4.4.1 All staff shall be delegated all those powers necessary to carry out those functions specified in their respective job descriptions and other supporting information that defines roles and responsibilities, subject to the general provisions and limitations set out in this Constitution.

#### **4.5 General Provisions and Limitations**

4.5.1 Apart from those powers set out below which have been generally or specifically delegated to staff, any remaining functions which have not been, under this or any other current scheme of delegations, specifically reserved to Council, Cabinet or any committees or sub- committees thereof are delegated to officers.

4.5.2 Staff shall exercise powers under this scheme in compliance with:

- The rules of procedure set out in this Constitution;
- Corporate policies and strategies; and

- Any additional conditions imposed either by the Council or by statute or any statutory code of conduct.

4.5.3 The exercise of the powers delegated under this Constitution or any other scheme of delegation by staff involving the incurring of expenditure is subject to there being sufficient approved provision within their budget to cover that expenditure.

4.5.4 Each Head of Function and Director shall have all the powers and duties delegated to the officers who report directly to them or other staff within his/her portfolio, who are assigned to him or her, so far as is legally permissible.

## **4.6 Monitoring Officer and Section 151 Officer**

4.6.1 The functions of the Monitoring Officer and Section 151 Officer are set out in Articles 12 and 14. So far as not specified by legislation, the Monitoring Officer and Section 151 Officer are delegated all powers necessary to carry out their statutory functions.

# **5 Proper Officer Functions**

## **5.1 Meaning of Proper Officer Functions**

5.1.1 The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations.

5.1.2 Proper officer is defined for most legislation by s.270 (3) Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.

5.1.3 The deputy proper officer is given in brackets after the proper officer. The deputy proper officer is appointed to act where the proper officer is absent and/or unable to act for any reason. Where neither the designated proper officer nor the designated deputy proper officer is able to act, or if there is no specified designated proper officer or deputy proper officer, the Chief Executive may designate an appropriate person to act as proper officer or deputy proper officer. If the Chief Executive is unable to act, this power shall be delegated to the Monitoring Officer or, if the Monitoring Officer is unavailable, to the Deputy Monitoring Officer.

## Local Government Act 1972

Section	Description	Proper Officer
83(1) – (4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: Chair, Vice-Chair, Councillor	Monitoring Officer (Chief Executive)
84	Officer to whom a person elected to any office under the Council may give written notice or resignation	Monitoring Officer (Chief Executive)
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Chief Executive
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local Government electors	Chief Executive (Monitoring Officer)
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to items during which the meeting is likely not to be open to the public	Monitoring Officer
100B(7)(c)	Officer who may think fit to provide any extra item relating to items on the agenda for a meeting of Council to a newspaper where requested under 100B(7)	Monitoring Officer
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Monitoring Officer
100D(1)(a) and (5)(a)	Officer responsible for identifying background papers and compiling list of such documents	Monitoring Officer
100F(2)	Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members	Monitoring Officer (Chief Executive)
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Section 151 Officer
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Section 151 Officer
204(3)	Officer to whom notice of application for a Justices License under schedule 1 of the Licensing Act 1964 should be given	Monitoring Officer
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Monitoring Officer
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts.	Monitoring Officer
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody	Monitoring Officer

Section	Description	Proper Officer
	of the Council	
234(1)	Officer who may authenticate documents	Monitoring officer
Para 4(2)(b) of Part 1 of Schedule 12	Officer who may sign a summons to council meetings and who may receive notice from a Member of alternative address to which a summons to a meeting is to be sent	Chief Executive (Monitoring Officer)

### Local Government Act 1974

Section	Description	Proper Officer
30 (5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Monitoring Officer

### Local Government (Miscellaneous Provisions) Act 1976

Section	Description	Proper Officer
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Monitoring Officer

### Buildings Act 1984

Section	Description	Proper Officer
78 (8) BA 1984	Officer responsible for taking immediate action in relation to dangerous buildings	Relevant Head of Function/Director

### Local Government Finance Act 1988

Section	Description	Proper Officer
114	Officer responsible for making financial report to the authority	Section 151 Officer

### Local Government (Committees and Political Groups) Regulations 1990

Section	Description	Proper Officer
8 (1) and (5)	Officer to whom notice is delivered about the constitution of a political group, or the change of name of a political group	Chief Executive (Monitoring Officer)
9 and 10	Officer to whom notice is delivered about a Councillor's membership of, or cessation of membership of, a political group	Chief Executive (Monitoring Officer)
13	Officer to whom the wishes of a political group are expressed	Chief Executive (Monitoring)

Section	Description	Proper Officer
		Officer)
14	Officer responsible for notifying a political group about allocations and vacations of seats	Monitoring Officer (Deputy Monitoring Officer)

### The Local Authorities (Standing Orders) (England) Regulations 2001

Section	Description	Proper Officer
Paras 5 and 6 of Part II of Schedule 1	Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment. This officer is the proper officer referred to in rule 8 of the Officer Employment Procedure Rules set out in this Constitution	Chief Executive

### Proper Officer Functions Referred To In Guidelines Issued by the Secretary of State Under Section 38 of the Local Government Act 2000 (Part 8 of this Constitution)

Section	Description	Proper Officer
17 Access to Information Procedure Rules	Officer who may, when requested to do so on behalf of an Scrutiny Committee, require Executive to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies	Monitoring Officer
2.5 Executive Procedure Rules	Officer who may place an item on the agenda of the next available meeting of the Cabinet for consideration	The Monitoring Officer and/or the Section 151 Officer in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a

Section	Description	Proper Officer
		decision, they may jointly include an item on the agenda of an Executive meeting.