

# Part Three, Section A

## Responsibility for Functions

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### 1. General

- 1.01 This section of the Constitution sets out who can take which decision. The Council's functions may be lawfully exercised by:
- a) The Full Council
  - b) The Executive (the collective term for the Leader, individual Cabinet Members, the Cabinet or a Committee of the Cabinet)
  - c) Committees and Sub-Committees of the Council or the Cabinet
  - d) Joint Committees
  - e) Officers
  - f) Area committees
- 1.02 All of the Council's functions are either "executive" or "non-executive". Executive functions are the responsibility of the Executive or one of its Committees, Sub-Committees, Joint Committees, or an officer. Non-executive functions are the responsibility of the Full Council or one of its Committees, Sub-Committees, Joint Committees or an officer.
- 1.03 The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Leader and a number of Executive members (Cabinet Members) selected by the Leader and which make up the Cabinet. The Executive might also establish Committees and Sub-Committees. All key decisions are made by the Executive and will be published in the Forward Plan in so far as they can be anticipated.
- 1.04 The Cabinet will ordinarily carry out all of the local authority's executive functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally or allocate them to an individual Cabinet Member or a Committee of the Cabinet.
- 1.05 Decision making meetings of the Executive will generally be open for the public to attend except where confidential or exempt matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is not in line with the budget or policy framework, this must be referred to the Full Council as a whole to decide.

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- 1.06 All functions of the Council are “executive”, and the responsibility of the Executive, unless in law they are prevented from being exercised by the Executive. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) set out which functions are non-executive and which cannot in law be the responsibility of the Executive. These regulations also set out certain functions which may be exercised by either the Full Council or the Executive and their Committees. These are called ‘local choice’ functions. In addition to these regulations, the parent legislation may also specify particular functions which are non-executive and which cannot in law be the responsibility of the Executive, for example the Local Government Finance Act 1992 and the setting of Council Tax.
- 1.07 Sections B –D of this Part set out which functions and decisions are executive and the responsibility of the Executive - the Leader, the Cabinet or individual Cabinet Members; and which functions are non-executive and the responsibility of the Full Council and whether, in either case, they have been delegated to a Committee, Sub-Committee, Joint Committee, or officer. Certain functions are reserved to the Full Council itself and these are set out at Article 4 and in Part 3 Section B.
- 1.08 Any area of responsibility that is not specifically listed under the matters reserved for members in Sections B –D is deemed to be delegated to officers – that is, the Chief Executive, the Strategic Leadership Team, Directors and Assistant Directors.
- 1.09 Part 3 Section B sets out the non-executive functions which are reserved to the Council and its Committees and Sub-Committees.
- 1.10 Part 3 Section C sets out the executive functions that are the responsibility of the Leader, individual Cabinet Members, the Cabinet and any Committees or Sub-Committees it establishes.
- 1.11 Part 3 Section D sets out the ‘local choice’ functions, which are those that the Council can allocate to either the Full Council or the Executive for decision, and sets out which body has been allocated them.
- 1.12 Part 3 Section E sets out the principles of the Officer Scheme of Delegation for all function and powers not otherwise reserved to members.
- 1.13 Decisions that have been delegated can still be taken by the parent body (i.e. the body that delegated the decision). It shall always be open to an officer to consult with the Committee or with appropriate Members on the exercise of delegated powers; or not to exercise delegated powers but to refer the matter to the Cabinet, the Leader, relevant Cabinet Member or to a Committee of the Council.

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