

PART 3E: Executive Functions

General

- 3E.1 The Council operates a Leader and Cabinet form of Executive and the Leader of the Council specifies how the functions of the Executive (known as 'Executive Functions') will be carried out.
- 3E.2 In law the Leader of the Council may discharge any Executive Functions and exercise any powers which are the responsibility of the Executive; alternatively the Leader may arrange for the discharge of any of those Functions by delegation to any of the following:-
- (a) the Cabinet
 - (b) a Cabinet Committee
 - (c) an individual member of the Cabinet (Cabinet Member)
 - (d) an officer of the Council
 - (e) another local authority
 - (f) jointly with another local authority through a joint committee or officer

Delegations

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 4 'General Scheme of Delegation of Executive Functions' and Table 5 'Additional Delegation of Executive Functions to Officers'. In Table 4 reference to 'Cabinet Member' means a Cabinet Member acting in portfolio as set out in Appendix A and reference to 'Officer' means Managing Director or Directors.
- 3E.4 The Leader has directed that the Executive Functions delegated to Cabinet Members as set out in Table 5 shall not be sub-delegated to Officers without his prior consent.
- 3E.5 Each person or body to whom an Executive Function is delegated in Table 5 and Appendix A shall be empowered to take any step in the course of or otherwise for the purposes of or in connection with the discharge of the Function, do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.
- 3E.6 The Leader may amend their delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer (in this case the Managing Director or in their absence or where they are unable to act the Council Solicitor) setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.
- 3E.7 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.
- 3E.8 In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.
- 3E.9 Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

Officer Delegations - Special Provisions

- 3E.10 The Managing Director or Directors are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3E to officers of suitable experience and seniority.
- 3E.11 An Officer does not have delegated authority to take a Key Decision unless (a) specifically authorised to do so by the Leader or (b) the Managing Director (or, in their absence or where they are unable to act, a Director) is taking an urgent decision as set out in this Part 3E.
- 3E.12 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function in question.
- 3E.13 The Leader may direct in any particular case that a delegated power to an Officer in respect of an Executive Function shall not be exercised by an officer and that the Function in question shall instead be exercised by the Leader or Cabinet. Such direction must be exercised in consultation with the Managing Director or Appropriate Director(s).
- 3E.14 A Cabinet Member may in respect of an Executive Function which falls within their portfolio direct in any particular case that a delegated power to an Officer shall not be exercised by an officer and shall instead be exercised by them as Cabinet Member. Such direction must be exercised in consultation with the Managing Director or Appropriate Director and the Leader.
- 3E.15 The Managing Director or Director may at their discretion and in consultation with the Leader or Cabinet Member refer any matter to the Leader or Cabinet for decision.
- 3E.16 Officers have responsibility to report to the Leader or Cabinet Member matters that are of political or strategic significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.

Table 4 –Executive Functions

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
Policy & Strategy					
Recommend to Council all plans strategies and policies which comprise the Policy Framework (Part 2 article 4) and initiate consultation on such plans policies and strategies			✓		
Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution			✓		
Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them	✓	✓			
Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework	✓		✓		MD
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	✓	✓			MD/D
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval			✓		
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions)		✓			
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)					MD/D
Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues	✓	✓			
Respond to all other consultations					MD/D
Implement the Council's Risk Management Policy & Strategy	✓	✓	✓		MD/D

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
Finance					
Prepare and consult on the Council's Budget and recommend to Council for approval			✓		
Receive and consider quarterly budget monitoring reports			✓		
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	✓		✓		MD
Make bid for funding with resource implications exceeding £250,000			✓		
Make bid for funding with resource implications exceeding £100,000 and not exceeding £250,000	✓	✓			
Make bid for funding with resource implications not exceeding £100,000					MD/D
Propose to Council a contribution to reserves above the level set in the Budget			✓		
Agree use of charging and trading powers		✓	✓		
Set fees and charges		✓			
Agree increase in fees and charges by more than inflation			✓		
Agree increase in fees and charges in line with inflation					MD/D
Service Delivery					
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		✓			
Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible				GCoC/SDC/T BC	MD/D
Undertake internal changes and improvement of the Council's services					MD
Commissioning and Contracts					
Approve the means by which the Council's services will be provided including through a local authority			✓		

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
company, community interest company, private organisation, trust or public/private partnership					
Arrange for any Executive Function to be undertaken by another local authority			✓		
Arrange for any Executive Function to be exercised jointly with one or more local authorities through joint arrangements			✓		
Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office	✓				
Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office	✓				
Represent (or arrange for a Cabinet Member or Officer to represent) the Council as shareholder or member in a company in which the Council holds an interest	✓				
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services					MD/D
Accept tenders within budget and exceeding £250,000		✓			
Accept tenders and quotations within budget and not exceeding £250,000					MD/D
Approve waiver to Contract Rules where the value is in excess of £250,000			✓		
Approve waiver to Contract Rules where the value does not exceed £250,000 pursuant to Contract Rule 6.3.2					MD/D
Approve waiver from Contract Rules where the value exceeds £250,000 and an urgent decision is required pursuant to Contract Rule 6.3.1					MD

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
Constitution & Democratic Process					
Make Key Decision		✓	✓		
Make urgent Key Decision	✓		✓		MD
Respond to call-in of a decision	✓	✓	✓		MD/D
Respond to petition to Council		✓			
Appoint and remove Cabinet Members and decide their portfolios	✓				
Establish Cabinet Committee or working group			✓		
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	✓				
Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4		✓	✓		
Undertake such specific Executive Function as may be allocated from time to time by the Leader	✓	✓	✓		MD/D
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet			✓		
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓		
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	✓				
Undertake any Executive Function delegated to Cabinet which in the opinion of the Managing Director requires an urgent decision before the next meeting of Cabinet	✓				
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree	✓				
Legal Services					

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
Undertake the role and functions of the Council's Solicitor and chief legal officer and provide the Council's legal service				TBC	
Audit					
Undertake the functions of the Council in respect of internal audit				GCoC	
HR					
Undertake functions of the Council in respect of human resources and payroll				GCoC	
Building Control					
Undertake functions of the Council in respect of building control				SDC	
Assets & Property					
Agree asset strategic/management plan			✓		
Dispose of non-land assets with a value exceeding £5,000			✓		
Dispose of non-land assets with a value not exceeding £5,000					MD/DPR
Make compulsory purchase order (CPO)			✓		
Acquire land or property following CPO					DPR
Acquire land (other than following CPO) where the value exceeds £250,000;			✓		
Acquire land (other than following a CPO) where the value is more than £100,000 but does not exceed £250,000;		✓			
Acquire land (other than following a CPO) where the value does not exceed £100,000;					DPR

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
Agree Surplus Property Register (in consultation with appropriate Corporate Director); and determine whether to retain the property or to dispose of it (in consultation with the Appropriate Corporate Director) (the timing of such disposal to be at the discretion of the Asset Manager)		✓			
Dispose of, exchange or appropriate public open space (any value) where there have been objections to the statutory notice of disposal or appropriation			✓		
Appropriate land (except public open space where objections to the statutory notice of intended appropriation are received)		✓			
Dispose of or exchange land with a value exceeding £250,000 (including at an undervalue)			✓		
Dispose of or exchange land with an annual value exceeding £100,000 but not exceeding £250,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)		✓			
Dispose of or exchange land with an annual value not exceeding £100,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)					DPR
Dispose of statutory allotments			✓		
Apply to Secretary of State to dispose of housing land under Housing Act 1985		✓			
Give public notice of a proposal to dispose of or change the use of public open space					DPR
Approval of rent reviews where the annual rent exceeds £250,000 and reviews are the subject of negotiation			✓		

FUNCTION	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer (Managing Director (MD) or Appropriate Director (D))
Determination of rent reviews: (a) Where the annual rental does not exceed £250,000; or (b) Where the annual rental exceeds £250,000, where a calculation mechanism is set down in the lease and has no element of negotiation					DPR
Grant consents and licences under any leases granted by the Council					DPR
Apply for consents and licences under any leases under which property is held by the Council					DPR
Authorise rent subsidy (exceeding a value of £250,000) to third party on Council owned land			✓		
Authorise rent subsidy (exceeding £50,000 but not exceeding a value of £250,000) to third party on Council owned land		✓			
Authorise rent subsidy (not exceeding £50,000) to third party on Council owned land					DPR
All other matters within the day-to-day management of the Council's property portfolio where the value of the action taken does not exceed £50,000					DPR

Definitions:

- “Acquire” includes the acquisition (including the acceptance of a surrender where appropriate) of a freehold or leasehold interest, rights, benefits or privileges, the dedication under statutory powers or obligations and includes the variation of any lease where the Council is a tenant under the lease.
- “Appropriation (appropriate)” is the formal transfer of property within the Authority from one statutory function to another
- “Dispose” includes the transfer of a freehold interest, dedication under statutory powers or obligations, easements (leasehold or freehold) and the grant, release, assignment or giving of a surrender (as appropriate) of any lease, covenants, benefits rights or privileges and includes the variation of any lease where the Council is a landlord under the lease.

- “Land” includes all buildings structures, rights and interests associated with land
- “Lease” includes any tenancy, licence, consent to occupy
- “Subsidy”, where there is reference to rent subsidy, is to the value of the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment
- “Value”, where there is reference to a lease/tenancy/licence/surrender, is to the identifiable rent, service charges, business rates and other outgoings for the identifiable period of commitment

Additional Delegation of Executive Functions to Officers

3E.17 All Executive Functions, other than those allocated in Table 4 of this Part 3E, are delegated to the Managing Director and Directors as set out in Table 5 below.

3E.18 In addition, the Managing Director and Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member.

Table 5-Additional Executive Functions of Officers

Managing Director	
Function	Condition
Discharge any Executive Function which is delegated to an Officer	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
To authorise Officers to represent the Authority before a court or tribunal pursuant to: - (a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: - (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 (b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007 (c) The Lay Representatives (Rights of Audience) Order 1999.	In consultation with the Council Solicitor
Authorise any Officer to or for any legal purpose including Statutory Officer appointments.	Unless otherwise prescribed by law or allocated to Council in Part 3B.
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities.	
Authorise requests for investigations under the Regulation of Investigatory Powers Act 2000 and to maintain a register of investigations authorised under the Act.	
Directors	
Function	Condition
Discharge any Executive Function which is delegated to an Officer (including the Managing Director) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Managing Director	Where the Managing Director is absent or unable to act through conflict of interest or

	otherwise. This Function falls to the Executive Director who is deputising for that period.
Undertake emergency planning and civil defence functions.	

Appendix A - Cabinet, Cabinet Member Portfolios and Decision making by Individual Cabinet Members

Cabinet	
1	The Cabinet will bear the responsibility for any of the local authority's functions which are delegated to it by the Leader.
2	The Leader will publish a Forward Plan at least monthly, showing a twelve-month programme of work and those decisions which are "Key Decisions", and also those decisions that may be made by an Individual Cabinet Member or which are delegated to an officer to make.

Decisions by Individual Cabinet Members

1. Decision making by Individual Cabinet Members applies only to executive functions that have been delegated to the Leader. The process does not apply to any function exercised by Council itself, or that Council has delegated to a committee, sub-committee or officer.
2. Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility (portfolios are outlined below) except:
 1. Decisions already taken by Cabinet or an officer acting under delegated powers.
 2. Decisions involving a departure from the Council's Budget or Policy Framework or any Cabinet or regulatory committee policy.
 3. Decisions involving expenditure or savings exceeding £250,000.
 4. Decisions which the Leader wishes to be taken by the full Cabinet or a decision which the Cabinet Member has asked to be taken collectively by the full Cabinet.
 5. Where at least 3 Members of the Council request that a decision be taken by the full Cabinet.

provided that all such decisions will be taken by the decision maker having regard to the advice of the Council Solicitor and S151 Officer in interpreting these provisions.

3. Cabinet Portfolios

Individual Cabinet Members are empowered by the Leader to make all executive decisions in respect of their own portfolio area of responsibility.

The allocation of portfolios to Cabinet Members will be reported to Council by the Leader of the Council from time to time.