

Part 3

Responsibility for Functions

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(Local Authorities (Functions and Responsibilities) (England) Regulations 2000) (The Functions Regulations)

1. Responsibility for Local Choice Functions

Function	Responsible body	Delegation of functions
1. Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Functions Regulations.	Cabinet	
2. The determination of an appeal against any decision made by or on behalf of the Council, (other than licencing and related quasi-judicial matters which are the functions of a committee or delegated by them).	Cabinet save that Personnel appeals shall be delegated to two members from such panel nominated on behalf of the Council as shall have undergone relevant Council training and one Director.	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein.
3. The appointment of review boards under Regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998.	Council	
4. The conducting of Best Value Reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Cabinet	

Function	Responsible body	Delegation of functions
<p>5. Any function relating to contaminated land.</p> <p>6. The discharge of any function relating to the control of pollution or the management of air quality.</p> <p>7. The service of an abatement notice in respect of a statutory nuisance.</p> <p>8. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area.</p> <p>9. The inspection of the Council's area to detect any statutory nuisance.</p> <p>10. The investigation of any complaint as to the existence of a statutory nuisance.</p> <p>11. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.</p> <p>12. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</p> <p>13. The appointment of any individual</p> <p>13.1 to any office other than an office in which he is employed by the Council;</p> <p>13.2 to any body other than -</p> <p>13.2.1 the Council;</p> <p>13.2.2 a joint committee of two or more authorities; or</p> <p>13.3 to any committee or sub-committee of such a body, and the revocation of any such appointment.</p>	<p>Cabinet -</p> <p>Council on recommendation of the Cabinet</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein.</p>

2. Responsibility for Council Functions

Committee	Membership	Functions	Delegation of functions
Planning	12 members of the Council	<p>Planning and conservation Functions relating to town and country planning and development control specified in Schedule 1 of the Functions Regulations</p> <p>Highways use and regulation The exercise of powers relating to the regulation of the use of highways, footpaths, bridleways, public paths and rights of way set out in Schedule 1 of the Functions Regulations as amended.</p>	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein
Licensing	15 members of the Council	<p>Sale/Supply of Alcohol and Provision of Entertainment and late night refreshment The Licensing functions of the Council under the Licensing Act 2003</p> <p>Taxi, gaming, entertainment, food and miscellaneous licensing Functions relating to licensing and registration set out in Schedule 1 of the Functions Regulations</p> <p>Health and Safety Functions relating to health and safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer</p>	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein

Committee	Membership	Functions	Delegation of functions
<p>Standards committee</p>	<p>5 members of the Council other than the Leader three independent members and two Parish Council members</p>	<p>The promotion and maintenance of high standards of conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Code of Conduct</p> <p>To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under section 80 of the Local Government Act 2000</p> <p>Assistance to members and co-opted members of the Council</p> <p>To ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</p> <p>Other functions</p> <p>Functions relating to standards of conduct of members under any relevant provision of or Regulations made under the Local Government Act 2000</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein</p>

Committee	Membership	Functions	Delegation of functions
Tree Panel	3 members of the Council none of whom sit on the Planning Committee	<p>Tree Preservation Orders Considering objections to tree preservation orders and deciding whether or not to confirm such orders where objection has been made, either with or without modification.</p> <p>Other Tree Issues Considering issues regarding particular trees or groups of trees which are under the Council's control when specifically referred to the Panel by the Council, the Cabinet or a Committee and making recommendations in relation thereto.</p>	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein
Audit Committee	Six members (two from each political group and excluding members of the Cabinet)	Generally considering all relevant processes for risk, control and governance	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein

3. Responsibility for Executive Functions

Responsibilities and Portfolios	Detailed Functions	Delegation of functions
<p>The Cabinet has collective responsibility for all executive functions, individual members having lead responsibility for separate portfolios outlined in the Leaders Scheme of Delegations:-</p> <ol style="list-style-type: none"> 1. Financial Strategy and Performance (Leader of the Council) 2. Business Intelligence and People Support and E Government (Deputy Leader) 3. Residential Operations Portfolio 4. Local Environment Portfolio 5. Residential Operations Portfolio 6. Economy and Infrastructure Portfolio 	<p>Contained in the Leader's Scheme of Delegations (see post)</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to individual Cabinet members and officers as provided therein.</p>

LEADER'S SCHEME OF DELEGATIONS

A. INTRODUCTION

The Council has delegated powers to the Leader to determine his/her own Scheme of Delegations for Executive functions.

This Scheme of Delegations sets out the powers which are reserved to Cabinet and the Leader and those powers which are delegated to individual Cabinet Members. This Scheme of Delegations can and will be changed in accordance with the wishes of the Leader but prior notification will be given in accordance with the Protocol that accompanies this Scheme of Delegations.

The Leader's Scheme of Delegations does not in any way impact upon delegations to the Improvement Board already in the Constitution.

B. **DELEGATIONS**

1. Powers Reserved to Cabinet

- 1.1 To be responsible for decisions which the Leader or the Deputy Leader (when deputising for the Leader) or Cabinet direct should be referred to Cabinet.
- 1.2 To be responsible for any Executive functions which involve a recommendation to Council including budget and policy proposals.
- 1.3 To be responsible for making Key Decisions.
- 1.4 To receive and respond to:
 - (a) reports to the Executive from the Overview and Scrutiny Committee, Monitoring Officer and Section 151 Officer;
 - (b) recommendations from Council;
 - (c) reports from external and internal auditors.
- 1.5 To be responsible for those Local Choice functions identified as the responsibility of Cabinet, in Part 3 of the Constitution.
- 1.6 To be responsible for any matter within a Cabinet Member's powers that has been referred to Cabinet by the Cabinet Member concerned.

1.7 To be responsible for matters that cross two or more Cabinet Members' portfolios.

2. **General Powers Delegated to all Cabinet Members**

Subject to the limitations in section 3 below, Cabinet Members shall within their respective areas of responsibility have the following powers:-

- 2.1 After consulting the Chief Executive or his/her nominee to approve and set priorities, programmes and service plans.
- 2.2 To monitor budgets and the performance of services.
- 2.3 To receive formal reports.
- 2.4 To agree the submission of bids for funding and resources from the Government or other agencies.
- 2.5 After consulting the Chief Executive or his/her nominee to agree to the appointment of consultants.
- 2.6 To take those Executive decisions which it is within the delegated powers of an Officer to take, and the Officer having such power, nevertheless refers to the Cabinet Member by reason of the decision's importance, sensitivity or precedence value.
- 2.7 To consider reports and agree to recommendations regarding the acceptance of a tender which is not the lowest (where payment is to be made by the Council) or the highest (where payment is to be received by the Council) in accordance with the Council's Contract Procedure Rules.
- 2.8 To make decisions on requests for waiver of the Procurement Code of Practice.
- 2.9 To be responsible for all staffing matters within his/her portfolio area not allocated or delegated to another Officer, individual or body.
- 2.10 To refer any matter within his/her delegated powers to Cabinet for decision.

3. **Limitations on Delegated Powers**

3.1 Nothing in this Scheme of Delegations authorises a Cabinet Member other than the Leader or the Deputy Leader (when deputising for the Leader) to make a decision which is a Key Decision. For the purposes of this Scheme of Delegations Key Decisions are defined as follows:

- Any decision in relation to an Executive function which results in the Council incurring expenditure which is, or the making of savings which are significant having regard to the Council's budget for the service or function to which the decision relates. For these purposes the minimum financial threshold will be £50,000.

- Where decisions are not likely to involve significant expenditure or savings but nevertheless are likely to be significant in terms of their effects on communities in two or more wards or electoral divisions.
- For the purposes of interpretation a decision which is ancillary or incidental to a Key decision which has been previously taken by or on behalf of the Council shall not of itself be further deemed to be significant for the purposes of the definition.

3.2 Nothing in this Scheme of Delegations authorises a Cabinet Member to make a decision which is:

3.2.1 contrary to the Council's policy framework or budget

3.2.2 contrary to the Council's Financial Procedure Rules

3.2.3 contrary to the Council's Contract Procedure Rules

3.2.4 contrary to any decision made by the Council or by Cabinet collectively

3.2.5 by law only to be taken by some other person or body or in some other way

3.2.6 subject to a requirement by either Cabinet or the Leader to be referred to Cabinet

3.2.7 not the responsibility of the Council's Executive

3.2.8 a decision that has been specifically reserved to the Council, other body or (except where 2.6 above applies) delegated to Officers.

4. **Powers Delegated to Particular Cabinet Members**

4.1 Cabinet Members who hold certain portfolios are given the specific powers given below. These powers are in addition to the powers delegated to all Cabinet Members described in section 2 above. For the avoidance of doubt if any specific power described below contains a limitation then a decision or action outside the limitation cannot be taken by the Cabinet Member concerned under his/her general delegated powers under section 2 but must be referred to full Cabinet. The limitations in section 3 above also apply to the specific powers below.

4.2 **Powers Reserved to the Leader of the Council – Financial Strategy and Performance**

4.2.1 To vary this Scheme of Delegations of Executive functions.

4.2.2 To direct that particular decisions or classes of decisions within the powers of Cabinet Members be referred to the Leader or Cabinet for decision.

- 4.2.3 To exercise any Executive powers and duties not reserved to Cabinet or delegated to an Officer, a Cabinet Member, individual or other body.
- 4.2.4 To act on behalf of any other Cabinet Member who is absent or unable to act, or to authorise another Cabinet Member to do so.
- 4.2.5 To determine any conflicts of opinion or decision which may arise between two or more Cabinet Members exercising delegated decisions under this Scheme of Delegations.
- 4.2.6 To make Key Decisions in matters of Urgency or Special Urgency.
- 4.2.7 To exercise the Executive powers and duties of the Council for the areas within the following portfolio:

Financial Strategy and Performance

Asset Management
Audit
Community Participation (incl. Forums, Partnerships, Participation Panel, Community Centres and Public Consultation)
Cultural Development
Finance Management
Financial Strategy & Accounting Services
Insurance and Risk Management
Markets
Project Development & Co-ordination

4.3 **Powers of the Deputy Leader – Business Intelligence, People Support and E-Government Portfolio**

- 4.3.1 To deputise for the Leader in his/her absence, or at his/her instruction, in relation to all functions which are the Leaders responsibility.
- 4.3.2 To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Business Intelligence, People Support and E-Government

Business Process and Improvement
Community Safety (incl. Health & Safety, CCTV, Call Care, Crime & Disorder, Partnerships)
Customer Services (Corporate)
Grants
Human Resources (People Operations and Development, Employee Welfare, Equalities and Diversity in the Workplace, Local Joint and Health & Safety)
IT Customer Support
IT Systems and Infrastructure
Performance Management (continuous improvement)

4.4 Powers of the Portfolio Holder - Residential Operations Portfolio

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Residential Operations Portfolio

Council Tax Collection
Housing Advice and Homelessness
Housing Allocations
Housing Estates
Housing Services and Management
Rents
Revenue and Benefits
Travellers

Without prejudice to the generality of the powers above to have the following specific powers:

- 4.4.1 Agreeing changes (virement) within the housing capital budget (but which require no overall increase in the budget) where the amount of virement is in excess of £50,000 in the current year, or where it is less but the change affects future years.
- 4.4.2 Agreeing to the disposal of dwellings (subject to the terms of any specific or general consent of the Secretary of State) in circumstances or in a manner not covered by the Right to Buy, and in particular under arrangements to enable tenants to finance the purchase of their homes by methods compliant with Islamic law (Sharia).
- 4.4.3 Agreeing to demand less than the maximum amount of discount recoverable on the further disposal of a sold Council dwelling.
- 4.4.4 Adopting policies, practices or protocols (including arrangements with one or more registered social landlord) to deal with offers of first refusal of sold Council dwellings.
- 4.4.5 Adopting policies, practices and standards (so far as is within the Council's discretion) with regard to the implementation of the following Parts of the Housing Act 2004:
- Part 1 (Housing Conditions).
 - Part 2 (Licensing of Houses in Multiple Occupation).
 - Part 4 (Additional Control Provisions in relation to Residential Accommodation).

4.5 Powers of the Portfolio Holder - Local Environment Portfolio

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Local Environment Portfolio

Development & Building Control
Direct Services Organisations
Environmental Health (incl. Environmental Protection)
Events/Museums
Leisure (incl. Sports Development)
Neighbourhood Wardens
Property Maintenance
Recycling
Waste Management (incl. Waste Operations and Minimisation)

Without prejudice to the generality of the powers above to have the following specific powers:

- 4.5.1 Accepting on behalf of the Council facilities provided under projects such as CASPAR and approving arrangements for the ongoing maintenance of such facilities.
- 4.5.2 Authorising amendments to the rules made by the Council under Section 28 of the Smallholdings and Allotments Act 1908 as amended after the Northampton Allotment Council have been consulted on and agree to any such amendments.

4.6 Powers Reserved to the Portfolio Holder - Economic and Infrastructure Portfolio

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Economic and Infrastructure

Car Parks
Economic Development & Intelligence
Planning Policy & Conservation (incl. Housing Strategy)
Regeneration (incl. WNDC and English Partnerships Link and Funding Opportunities)
Tourism
Town Centre

4.7 Powers Reserved to the Portfolio Holder - Community Engagement & Democratic Services Portfolio

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Communications
Community Development
Community Wellbeing
Councillor & Management Support
Electoral Services
Emergency Planning
Legal Services (incl. Right to Buy, Licensing and Land Charges)
Meetings Services (Cabinet, Scrutiny, Audit, Regulatory etc)
Parks and Open Spaces
Street Cleansing & Street Scene

- 4.7.1 Agreeing to accept donations of land for use as public open space or community purposes pursuant to agreements under Section 106 of the Town and Country Planning Act 1990 or in similar circumstances.
- 4.7.2 Agreeing to the disposal or appropriation of areas of public open space of not more than 5,000 square metres, subject to public advertisement and the consideration of any objection by full Cabinet.