

Responsibility for Functions

Section 9D of the Local Government Act 2000 (as amended by the Localism Act 2011) provides that all the functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by the Local Government Act 2000, by subsequent legislation or by regulations made under the Local Government Act 2000. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) set out those functions:

- (a) which must not be discharged by the Cabinet, (e.g. determining of planning applications)
- (b) which may be the responsibility of the Cabinet, (e.g. service of an abatement notice for statutory nuisance);
- (c) which may not be the sole responsibility of the Cabinet (e.g. Crime and Disorder Strategy); and
- (d) circumstances in which functions which would otherwise be functions of the Cabinet fall to be discharged other than by the Cabinet (e.g. where the Cabinet is taking a decision concerning the budget and wish to make a decision contrary to the approved budget, then this is a matter for the Council).

Accordingly, the Council only has a discretion as to the allocation of functions between the Council ("Council functions") and the Cabinet ("Cabinet functions") in respect of those functions which fall within categories (b) and (c) above.

Council functions shall therefore comprise:

- (a) those functions which are reserved as Council functions by the Local Government Act 2000 (as amended) and by subsequent legislation;
- (b) those functions which are reserved as Council functions by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(as amended) and subsequent regulations under the Local Government Act 2000;
- (c) of those functions set out in Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(as amended):
 - (i) under paragraph 2 of that Schedule, any appeal in respect of a decision which is a Council function shall be a Council function; and
 - (ii) under paragraph 19 of that Schedule, the appointment of any individual to any office or body, or to any committee or sub-committee of any body, and the revocation of such appointment shall be a Council function except to the extent that the opportunity for such appointment arises at such date that it is not convenient to defer any such appointment until the next Annual meeting of the Council

and those plans and strategies set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) together with such other plans and strategies as the Council shall identify from time to time for this purpose.

The Council may make arrangements under Section 101 of the Local Government Act 1972 for the discharge of any of its functions by:

- (a) a Committee;
- (b) a Sub-Committee
- (c) a Joint Committee
- (d) another local authority, or
- (e) an officer.

Such arrangements are set out in Part 2 of this Constitution and in the Scheme of Delegation of Council Functions to Officers.

The Leader may make arrangements for the discharge of executive functions by:

- (a) the Cabinet (as a body);
- (b) an individual member of the Cabinet;
- (c) a Committee of the Cabinet; or
- (d) an Officer.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) specify which functions are not to be the responsibility of the executive i.e. the Cabinet, which may (but need not) be the responsibility of the Cabinet (the 'local choice functions') and which are to some extent the responsibility of the Cabinet. All other functions not so specified are to be the responsibility of the Cabinet.

ALLOCATION OF LOCAL CHOICE FUNCTIONS

Function	Decision Making Body	Membership	Delegation of functions See Terms of Reference/Officer Delegation Scheme for terms and limitations of delegations.
1. Functions under a local Act (other than one specified or referred to in Reg 2 or Schedule 1 of the Regulations 2000)	Cabinet	8 Councillors	
2. Any function relating to contaminated land ¹	Cabinet	8 Councillors	Portfolio Holder for Planning, Environment and Sustainability
3. The control of pollution or the management of air quality ²	Cabinet	8 Councillors	Portfolio Holder for Planning, Environment and Sustainability
4. The service of an abatement notice in respect of a statutory nuisance ³	Cabinet	8 Councillors	Portfolio Holder for Communities, Heritage and Public Protection

¹ Part IIA Environmental Protection Act 1990 and subordinate legislation

² Pollution Prevention and Control Act 1999; Part IV Environment Act 1995; Part I Environmental Protection Act 1990; Clean Air Act 1993

³ s80(I) Environmental Protection Act 1990

Function	Decision Making Body	Membership	Delegation of functions See Terms of Reference/Officer Delegation Scheme for terms and limitations of delegations.
5. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area ⁴	Cabinet	8 Councillors	Portfolio Holder for Communities and Public Protection
6. The inspection of the authority's area to detect any statutory nuisance ⁵	Cabinet	8 Councillors	Portfolio Holder for Communities and Public Protection
7. The investigation of any complaint as to the existence of a statutory nuisance ⁶	Cabinet	8 Councillors	Portfolio Holder for Communities and Public Protection
8. Obtaining of information as to interests in land ⁷	Planning Committee	9 Councillors	Service Director Planning, Sustainability and Climate Change
9. Obtaining of particulars of persons interested in land ⁸	Cabinet	8 Councillors	All Service Directors in pursuance of their delegated authority
10. The making of arrangements for the execution of highways works ⁹	Cabinet	8 Councillors	Portfolio Holder for Planning, and Sustainable Development
11. 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	8 Councillors	Leader of the Council and Portfolio Holder for Strategy

⁴ s8 Noise and Statutory Nuisance Act 1993

⁵ s79 Environmental Protection Act 1990

⁶ s79 Environmental Protection Act 1990

⁷ s330 Town and Country Planning Act 1990

⁸ s16 Local Government (Miscellaneous Provisions) Act 1976

⁹ s278 Highways Act 1980

RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations ¹⁰	Delegation of functions
Council	51 Councillors	<p>Functions relating to elections</p> <p>The appointment of the electoral registration officer, the appointment of the returning officer for local elections and as to polling districts and local election pilot schemes¹¹</p> <ul style="list-style-type: none"> • assignment of officers to the Electoral Registration Officer • assistance at European Parliament elections • the holding of elections/the filling of certain vacancies, • the declaration of vacancies, and • notices of casual vacancies • fees for and conditions of supply of elections documents <p>All other functions relating to elections¹²</p>	<p>The Chief Executive has been appointed the Electoral Registration Officer for the Council and the Returning Officer for local elections.</p> <p>Chief Executive</p>
Council	51 Councillors	<p>Power to change the name of the district or parish¹³</p> <p>Power to confer title of honorary alderman or to admit to be an honorary freeman of the City¹⁴</p> <p>Power to make, amend, revoke, enact or enforce byelaws¹⁵</p> <p>Local or personal Bills¹⁶ power to promote or oppose local Bills in Parliament</p> <p>Functions relating to local government pensions¹⁷</p> <p>Proper Officers¹⁸ Power to appoint officers for particular purposes (appointment of "Proper Officers").</p>	<p>Chief Finance Officer</p> <p>Strategic Directors / Service Directors / Monitoring Officer</p>

¹⁰ Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)

¹¹ paras 1, 6, 8, 9 and 17 of Section D

¹² Section D

¹³ paras 1, 2 of Section E

¹⁴ para 3 of Section E

¹⁵ Section F

¹⁶ Section G

¹⁷ para 1 of Section H

¹⁸ para 40 of Section I

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations ¹⁰	Delegation of functions
Council	51 Councillors	<p>Head of Paid Service¹⁹ Duty to designate officer as the Authority's Head of Paid Service, and to provide staff, etc.</p> <p>Monitoring Officer²⁰ Duty to designate officer as the Monitoring Officer, and to provide staff, etc.</p> <p>Chief Finance Officer²¹ Duty to designate officer as the Chief Finance Officer, and to provide staff, etc.</p> <p>Powers relating to Overview and Scrutiny Committees (voting rights of co-opted members)²²</p>	
Council	51 Councillors	<p>Administration of Financial Affairs Duty to make arrangements for proper administration of financial affairs etc²³</p> <p>Procedure Rules Power to make and amend Procedure Rules and Contract Procedure Rules²⁴</p>	<p>Section 151 Officer</p> <p>Section 151 Officer in relation to Financial Regulations</p> <p>Monitoring Officer in respect of any other Rules</p>
Council	51 Councillors	<p>Appointment of Staff²⁵ (Below Head of Service level). Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).</p>	<p>All Strategic Directors in accordance with the Scheme of Delegation to Officers</p>
Council	51 Councillors	<p>Maladministration Power to make payments or provide other benefits in cases of maladministration²⁶</p>	<p>Chief Operating Officer, Deputy Chief Executive and Executive Director, Place /Strategic Directors/ Monitoring Officer in accordance with the Scheme of Delegation to Officers</p>
Council	51 Councillors	<p>Designated Public Places Order²⁷ Power to make an order identifying a place as a designated public place for the purpose of Police powers in relation to alcohol consumption</p> <p>Alcohol Disorder Zone Power to make or revoke and order designating a locality as an alcohol disorder zone</p>	

¹⁹ para 43 of Section I

²⁰ paras 44 and 44A of Section I

²¹ para 44 of Section I

²² para 44B of Section I

²³ para 39 of Section I

²⁴ paras 36 and 38 of Section I

²⁵ para 37 of Section I

²⁶ para 48 of Section I

²⁷ paras 49 & 50 of Section I

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations ¹⁰	Delegation of functions
Appointments Committee	3 main political Group Leaders plus relevant Portfolio Holders	<p>Appointment of Chief Executive, Chief Operating Officer, Deputy Chief Executive and Executive Director, Place and Strategic Directors and recommendations regarding the appointment of Head of Paid Service.</p> <p>To hear and determine any appeal by the Chief Executive, Chief Operating Officer, Deputy Chief Executive and Executive Director, Place, Strategic Directors relating to dismissal following the Council's Disciplinary Procedures.</p>	
Planning Committee	12 Councillors	<p>Planning, development control and conservation Functions relating to town and country planning, development control and conservation²⁸</p> <p>Highways use and regulation The exercise of powers relating to the regulation of the use of highways²⁹ (including footpaths and bridleways)³⁰</p> <p>Tree Preservation and Hedgerows Functions relating to the preservation of trees and the protection of important hedgerows³¹</p> <p>Powers relating to complaints about high hedges³²</p>	Refer to Scheme of Delegation to Officers contained at Part 3 of this Constitution
Sub Committee of the Licensing Committee	<p>3 of 12 Councillors</p> <p>3 of 12 Councillors</p> <p>3 of 12 Councillors</p> <p>3 of 12 Councillors</p>	<p>Sex establishment venues and miscellaneous licensing Functions relating to licensing registration and enforcement</p> <p>Private hire and hackney carriage licensing Functions relating to licensing and registration and enforcement³³</p> <p>Gambling Act 2005 Licensing Regime Functions relating to licensing</p> <p>Licensing Act 2003 Licensing Regime Functions relating to licensing³⁴</p>	Refer to Scheme of Delegation to Officers contained at Part 3 of this Constitution

²⁸ paras 1 to 31 of Section A

²⁹ paras 46A, 47, 47A to 55 of Section B and 30A of Section I

³⁰ paras 1 to 4 and 6, 7 of Section I

³¹ paras 46, 47 of Section I

³² para 47A of Section I

³³ paras 1 to 21, 23 to 34, 39 to 46, 56 to 68, 71 of Section B and paras 42 and 49 of Section I

³⁴ para 14A of Section B

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations ¹⁰	Delegation of functions
Licensing Committee	12 Councillors	Licensing market and street trading ^{34a} Functions relating to pavement licences ^{34b}	
Governance and Audit Committee	8 Councillors	Statement of Accounts The duty to consider and approve the Council's Statement of Accounts under the Accounts and Audit Regulations ³⁵ 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 ³⁶ Safety at Sports Grounds Functions relating to safety of sports grounds ³⁷ Regulatory Matters Functions relating to Community Governance para EB	
Governance and Audit Committee	8 Councillors, Independent persons (non-voting) and up to 3 Parish Council representatives (non-voting)	The promotion and maintenance of high standards of conduct within the Council To advise the Council on the adoption or revision of its Code of Conduct To monitor and advise the Council on the operation of its Code of Conduct in the light of best practice, changes in the law and guidance under the Localism Act 2011 Assistance to Councillors and co-opted external persons To ensure that all Councillors have access to training in all aspects of the Code of Conduct, training is actively promoted, and that Councillors and co-opted persons are aware of the standards expected under the Code. Other functions Functions relating to standards of conduct of Councillors including granting of dispensations under the Localism Act 2011	Monitoring Officer in relation to Council's arrangements for dealing with complaints regarding Member conduct and granting of dispensations in certain circumstances

^{34a} para 20 of Section B ^{34b} para 73 of Section B

³⁵ para 45 of Section I

³⁶ Section C

³⁷ paras 26 to 27 of Section B

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations¹⁰	Delegation of functions
Local Plan Committee	12 Councillors (except those being members of the Planning Committee)	Local Planning and Neighbourhood Planning Functions	

ADVISORY PANEL FUNCTIONS

The Council has created the Environment and Sustainability Panel and the LGR Transformation and Transition Panel to advise Cabinet with the membership and Terms of Reference set out below:

	Membership	Terms of Reference
Environment and Sustainability Panel	12 Councillors	<ol style="list-style-type: none"> To monitor progress of the Council's Climate Emergency Action Plan towards achieving its goal to be carbon neutral and to provide an annual report to Cabinet which evaluates this progress. To act as 'critical friend' in providing challenge and scrutiny of projects and initiatives aimed at decarbonising our Assets and promote innovative environmental practices. To consider key Council policy proposals which are not covered by other committees, with a clear climate or environmental focus to ensure they meet our strategic environmental objectives. To monitor progress on working with Essex County Council and others to investigate opportunities to make neighbourhoods safer and healthier by reducing speed limits where there is support in the community. To review tree cover and the scope for further planting mindful of past initiatives such as Trees for Years and the Woodland Project. To make recommendations to Cabinet where appropriate.

	Membership	Terms of Reference
LGR Transformation and Transition Panel	8 Councillors	<ol style="list-style-type: none"> To monitor and support progress through the North East Essex Shadow Board and Joint Committee towards the new unitary authority, as may be required by Government LGR programme, and Structural Changes Order. To receive and comment on reports regarding the Council's implementation progress in readiness for the transition to the new North-East Essex unitary authority on 1 April 2028. Including people, assets, digital and finance etc. To review and comment on reports regarding the Council's implementation progress in readiness for the transition to the new North-East Essex unitary authority on 1 April 2028. Including people, assets, digital and finance etc. To review the disposals and assets estates programme, taking account of those assets and or disposals arising from the formation of the new unitary council.

	Membership	Terms of Reference
LGR Transformation and Transition Panel		<p>5. To act as 'critical friend', provide scrutiny of activities focused on transformation and make recommendations to cabinet and officers as appropriate.</p> <p>6. To make recommendations to Cabinet where appropriate.</p>