

## 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.

<b>ALLOCATION OF LOCAL CHOICE FUNCTIONS</b>
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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 <sup>1</sup>	Cabinet	8 Councillors	Portfolio Holder for Environment and Sustainability
3. The control of pollution or the management of air quality <sup>2</sup>	Cabinet	8 Councillors	Portfolio Holder for Environment and Sustainability
4. The service of an abatement notice in respect of a statutory nuisance <sup>3</sup>	Cabinet	8 Councillors	Portfolio Holder for Housing and Communities

<sup>1</sup> Part IIA Environmental Protection Act 1990 and subordinate legislation

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

<sup>3</sup> s80(I) Environmental Protection Act 1990

<b>Function</b>	<b>Decision Making Body</b>	<b>Membership</b>	<b>Delegation of functions See Terms of Reference/Officer Delegation Scheme for terms and limitations of delegations.</b>
5. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 should apply in the authority's area <sup>4</sup>	Cabinet	8 Councillors	Portfolio Holder for Housing and Communities
6. The inspection of the authority's area to detect any statutory nuisance <sup>5</sup>	Cabinet	8 Councillors	Portfolio Holder for Housing and Communities
7. The investigation of any complaint as to the existence of a statutory nuisance <sup>6</sup>	Cabinet	8 Councillors	Portfolio Holder for Housing and Communities
8. Obtaining of information as to interests in land <sup>7</sup>	Planning Committee	11 Councillors	Assistant Director- Place and Client
9. Obtaining of particulars of persons interested in land <sup>8</sup>	Cabinet	8 Councillors	All Assistant Directors in pursuance of their delegated authority
10. The making of arrangements for the execution of highways works <sup>9</sup>	Cabinet	8 Councillors	Portfolio Holder for Planning and Infrastructure
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

<sup>4</sup> s8 Noise and Statutory Nuisance Act 1993

<sup>5</sup> s79 Environmental Protection Act 1990

<sup>6</sup> s79 Environmental Protection Act 1990

<sup>7</sup> s330 Town and Country Planning Act 1990

<sup>8</sup> s16 Local Government (Miscellaneous Provisions) Act 1976

<sup>9</sup> s278 Highways Act 1980

## RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations <sup>10</sup>	Delegation of functions
<b>Council</b>	51 Councillors	<p><b>Functions relating to elections</b></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 schemes<sup>11</sup></p> <ul style="list-style-type: none"> <li>• assignment of officers to the Electoral Registration Officer</li> <li>• assistance at European Parliament elections</li> <li>• the holding of elections/the filling of certain vacancies,</li> <li>• the declaration of vacancies, and</li> <li>• notices of casual vacancies</li> <li>• fees for and conditions of supply of elections documents</li> </ul> <p>All other functions relating to elections<sup>12</sup></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>
<b>Council</b>	51 Councillors	<p><b>Power to change the name of the district or parish<sup>13</sup></b></p> <p><b>Power to confer title of honorary alderman or to admit to be an honorary freeman of the Borough<sup>14</sup></b></p> <p><b>Power to make, amend, revoke, enact or enforce byelaws<sup>15</sup></b></p> <p><b>Local or personal Bills<sup>16</sup></b> power to promote or oppose local Bills in Parliament</p> <p><b>Functions relating to local government pensions<sup>17</sup></b></p> <p><b>Proper Officers<sup>18</sup></b> Power to appoint officers for particular purposes (appointment of "Proper Officers").</p>	<p>Chief Finance Officer</p> <p>Deputy Chief Executive/ Strategic Director / Assistant Directors / Monitoring Officer</p>

<sup>10</sup> Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended)

<sup>11</sup> paras 1, 6, 8, 9 and 17 of Section D

<sup>12</sup> Section D

<sup>13</sup> paras 1, 2 of Section E

<sup>14</sup> para 3 of Section E

<sup>15</sup> Section F

<sup>16</sup> Section G

<sup>17</sup> para 1 of Section H

<sup>18</sup> para 40 of Section I

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations <sup>10</sup>	Delegation of functions
<b>Council</b>	51 Councillors	<p><b>Head of Paid Service<sup>19</sup></b> Duty to designate officer as the Authority's Head of Paid Service, and to provide staff, etc.</p> <p><b>Monitoring Officer<sup>20</sup></b> Duty to designate officer as the Monitoring Officer, and to provide staff, etc.</p> <p><b>Chief Finance Officer<sup>21</sup></b> 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)<sup>22</sup></p>	
<b>Council</b>	51 Councillors	<p><b>Administration of Financial Affairs</b> Duty to make arrangements for proper administration of financial affairs etc<sup>23</sup></p> <p><b>Procedure Rules</b> Power to make and amend Procedure Rules and Contract Procedure Rules<sup>24</sup></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>
<b>Council</b>	51 Councillors	<p><b>Appointment of Staff<sup>25</sup></b> (Below Assistant Director level). Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).</p>	Deputy Chief Executive/ Strategic Director/Assistant Directors in accordance with the Scheme of Delegation to Officers
<b>Council</b>	51 Councillors	<p><b>Maladministration</b> Power to make payments or provide other benefits in cases of maladministration<sup>26</sup></p>	Deputy Chief Executive, Strategic Director /Assistant Directors/ Monitoring Officer in accordance with the Scheme of Delegation to Officers
<b>Council</b>	51 Councillors	<p><b>Designated Public Places Order<sup>27</sup></b> 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><b>Alcohol Disorder Zone</b> Power to make or revoke and order designating a locality as an alcohol disorder zone</p>	

<sup>19</sup> para 43 of Section I

<sup>20</sup> paras 44 and 44A of Section I

<sup>21</sup> para 44 of Section I

<sup>22</sup> para 44B of Section I

<sup>23</sup> para 39 of Section I

<sup>24</sup> paras 36 and 38 of Section I

<sup>25</sup> para 37 of Section I

<sup>26</sup> para 48 of Section I

<sup>27</sup> paras 49 & 50 of Section I

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations <sup>10</sup>	Delegation of functions
<b>Appointments Committee</b>	3 main political Group Leaders plus relevant Portfolio Holders	<p>Appointment of Chief Executive, Deputy Chief Executive, Strategic Director and recommendations regarding the appointment of Head of Paid Service.</p> <p>Appointment of staff at Assistant Director level.</p> <p>To hear and determine any appeal by the Chief Executive, Deputy Chief Executive, or Strategic Director relating to dismissal following the Council's Disciplinary Procedures.</p>	
<b>Planning Committee</b>	11 Councillors	<p><b>Planning, development control and conservation</b> Functions relating to town and country planning, development control and conservation<sup>28</sup></p> <p><b>Highways use and regulation</b> The exercise of powers relating to the regulation of the use of highways<sup>29</sup> (including footpaths and bridleways)<sup>30</sup></p> <p><b>Tree Preservation and Hedgerows</b> Functions relating to the preservation of trees and the protection of important hedgerows<sup>31</sup></p> <p>Powers relating to complaints about high hedges<sup>32</sup></p>	Refer to Scheme of Delegation to Officers contained at Part 3 of this Constitution
<b>Sub Committee of the Licensing Committee</b>	<p>3 of 11 Councillors</p> <p>3 of 11 Councillors</p> <p>3 of 11 Councillors</p> <p>3 of 11 Councillors</p>	<p><b>Sex establishment venues and miscellaneous licensing</b> Functions relating to licensing registration and enforcement</p> <p><b>Private hire and hackney carriage licensing</b> Functions relating to licensing and registration and enforcement<sup>33</sup></p> <p><b>Gambling Act 2005 Licensing Regime</b> Functions relating to licensing</p> <p><b>Licensing Act 2003 Licensing Regime</b> Functions relating to licensing<sup>34</sup></p>	Refer to Scheme of Delegation to Officers contained at Part 3 of this Constitution

<sup>28</sup> paras 1 to 31 of Section A

<sup>29</sup> paras 46A, 47, 47A to 55 of Section B and 30A of Section I

<sup>30</sup> paras 1 to 4 and 6, 7 of Section I

<sup>31</sup> paras 46, 47 of Section I

<sup>32</sup> para 47A of Section I

<sup>33</sup> 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

<sup>34</sup> para 14A of Section B

Committee	Membership	Functions as set out in Schedule 1 of the Functions Regulations <sup>10</sup>	Delegation of functions
<b>Licensing Committee</b>	11 Councillors	<b>Licensing market and street trading</b> <sup>34a</sup>  <b>Functions relating to pavement licences</b> <sup>34b</sup>	
<b>Governance and Audit Committee</b>	7 Councillors	<b>Statement of Accounts</b> The duty to consider and approve the Council's Statement of Accounts under the Accounts and Audit Regulations <sup>35</sup>  <b>Health and safety</b> 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 <sup>36</sup>  <b>Safety at Sports Grounds</b> Functions relating to safety of sports grounds <sup>37</sup>  <b>Regulatory Matters</b>  <b>Functions relating to Community Governance</b> para EB	
<b>Governance and Audit Committee</b>	7 Councillors, Independent persons (non-voting) and up to 3 Parish Council representatives (non-voting)	<b>The promotion and maintenance of high standards of conduct within the Council</b>  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  <b>Assistance to Councillors and co-opted external persons</b> 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.  <b>Other functions</b> 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

<sup>34a</sup> para 20 of Section B <sup>34b</sup> para 73 of Section B

<sup>35</sup> para 45 of Section I

<sup>36</sup> Section C

<sup>37</sup> paras 26 to 27 of Section B

<b>Committee</b>	<b>Membership</b>	<b>Functions as set out in Schedule 1 of the Functions Regulations<sup>10</sup></b>	<b>Delegation of functions</b>
<b>Local Plan Committee</b>	11 Councillors (except those being members of the Planning Committee)	<b>Local Planning and Neighbourhood Planning Functions</b>	

## **FUNCTIONS OF ADVISORY PANELS**

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

	<b>Membership</b>	<b>Terms of Reference</b>
<b>Policy Panel</b>	7 Councillors	<p>(1) To consider strategies, policies and legislative changes identified by Cabinet that may require review and improvement and to seek Cabinet's agreement as to whether and how they should be examined.</p> <p>(2) To review issues at the request of a Portfolio Holder and to make recommendations back to the Portfolio Holder for decision.</p>

	<b>Membership</b>	<b>Terms of Reference</b>
<b>Environment and Sustainability Panel</b>	11 Councillors	<p>(1) To acknowledge our "Climate Emergency" and translate aspirations into actions.</p> <p>(2) To explore methods of conservation of natural habitats and bio-diversity, whether through adapting existing practices and places or creating new ecologically diverse environments with sustainable practices built in.</p> <p>(3) To engage, communicate and collaborate with strategic partners, external bodies, Parish Councils and local communities, to encourage biodiversity enhancement and sustainable practices through their work.</p> <p>(4) To encourage environmental stewardship focusing on carbon footprint reduction by improving air quality, water quality, plastic and waste reduction and renewable energy generation in both public and private spheres across the Borough</p> <p>(5) To be a leading voice for environmental sustainability, promoting innovative environmental practices, having influence across the borough and beyond, including public and private sector policy, at regional and national levels.</p> <p>(6) To monitor and regularly report to Cabinet and Full Council upon progress and implementation of the Council's Climate Emergency Action Plan and its goal to be net carbon neutral by 2030</p>