

PART 3 RESPONSIBILITY FOR FUNCTIONS
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PART 3A

INTRODUCTION

- 3A.1 The Authority consists of a number of distinct elements which are each allocated certain functions. The most important elements are Council (all councillors), Committees (undertaking specific functions delegated by Council/specified in statute) and the Executive (Leader and Cabinet). These are the primary decision making bodies within the Authority and they exercise different powers and functions. To assist the efficient working of the Authority these bodies have delegated some of their functions to other parts of the Authority including Sub-Committees and Officers.
- 3A.2 This Part 3 of the Constitution describes the way in which the Authority's powers and functions are distributed amongst the various parts of the Authority and who may lawfully exercise those powers within any limits or in accordance with any conditions.
- 3A.3 The law¹ provides a framework under which functions:
- (a) must be the responsibility of the Executive
 - (b) must not be the responsibility of the Executive
 - (c) may or may not be the responsibility of the Executive
 - (d) must be exercised by Full Council
- 3A.4 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Member of the Executive (Cabinet Member) or an Officer (exercising Executive Functions). Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or officer of another authority. The delegation of Executive Functions is set out in Part 3E 'Executive Functions' below.
- 3A.5 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions) and these Functions are set out in Part 3B 'Council Functions', Part 3C 'Committee Functions' and Part 3D 'Officer Non-Executive Functions' below.²
- 3A.6 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.
- 3A.7 A Key Decision³ shall only be taken by Cabinet, unless such a decision has been

¹ Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended (see Appendix ????)

² Non-Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or officer of another local authority.

³ Relates to Executive Functions and is defined in Article 13

specifically delegated by the Leader to a Cabinet Member or an Officer or unless the Leader, Chief Executive or Executive Director is exercising their urgency powers (as set out in Part 3E below).

- 3A.8 A Significant Decision⁴ shall only be taken by Council or a Committee unless such a decision has been specifically delegated to a Sub-Committee or Officer or unless the Chief Executive or Executive Director is exercising their urgency powers (as set out in Part 3D below).

⁴ Relates to non-Executive Functions and is defined in Article 13

PART 3B**COUNCIL FUNCTIONS**

3B.1 The functions that may only be exercised by Council are set out in Table 1 below:

Table 1

Determine which plans, strategies and polices shall comprise the Authority's Policy Framework ⁵ and from time to time approve, adopt and amend those plans, strategies and policies
Determine and amend the Authority's Budget ⁶
Approve the Authority's Statement of Accounts ⁷
Approve a departure from the approved Policy Framework and/or the approved Budget ⁸
Appoint and remove the Leader ⁹
Change the executive arrangements of the Authority ¹⁰
Establish, abolish and decide the terms of reference and the composition of Council Committees and make appointments including co-opted members to them and other non-Executive bodies ¹¹
Make and amend Procedural Rules, Financial Rules and Contract Rules ¹²
Change the name of the Borough or a parish ¹³
Elect a Mayor (Council Chairman) and Deputy Mayor (Council Vice-Chairman) ¹⁴
Confer the title of Honorary Alderman ¹⁵ and grant the Freedom of the Borough
Promote or oppose local or personal bills
Where it is the function of the Authority, divide Parliamentary Constituencies and local government electoral divisions into polling districts ¹⁶
Appoint an Electoral Registration Officer ¹⁷ and Returning Officer for local government elections ¹⁸
Make, amend, revoke or re-enact Byelaws
Dissolve small parish councils and make orders for grouping parishes, dissolving groups and separating parishes from groups and make temporary appointments to parish councils ¹⁹
Fill Council or Parish Council vacancies in the event of insufficient nominations
Change ordinary year of election of parish councillors ²⁰
Submit proposals to the Secretary of State for an Order for pilot schemes for local elections ²¹
Confirm the appointment or dismissal of the Chief Executive (Head of Paid Service) and designate officers as the Monitoring Officer and the Chief Finance Officer ²²

⁵ Policy Framework is defined in Article 4

⁶ Budget is defined in Article 4

⁷ Accounts & Audit Regulations 1996 as amended

⁸ Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)

⁹ Stat ref //

¹⁰ s// LGA 2000

¹¹ S101 LGA 1972

¹² ss 135, ///, 151 LGA 1972 (For Procedural, Financial and Contract Rules see Part 4)

¹³ ss74 & 75 LGA 1972

¹⁴ ss3-5 LGA 1972

¹⁵ S249 LGA 1972

¹⁶ ss18 & 31 Rep of the People Act 1983

¹⁷ s8(2) Rep of the People Act 1983

¹⁸ s35 Rep of the People Act 1983

¹⁹ ss 10, 11 & 91 LGA 1972

²⁰ s53 LGPIH Act 2007

²¹ s10 Rep of the People Act 2000

²² ss4&5 LG(MP)A89 and s151 LGA 1972

Appendix 2.1

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Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council
Establish and abolish Joint Committees (in respect of non-Executive functions) ²³
Authorise applications to the Secretary of State for approval of housing land transfers ²⁴
Undertake community governance review ²⁵
Adopt or amend the Code of Members' Conduct ²⁶
Take decisions and/or give advice on matters brought to Council by the Leader, Cabinet, Officers and other bodies or persons
Receive and consider statutory reports from the Head of Paid Service and the Monitoring Officer ²⁷
Determine whether local choice functions ²⁸ will be exercised by Council or the Cabinet and undertake such local choice functions as allocated to Council
Discharge any other function which is by law reserved to Council

²³ s101(5) LGA 1972

²⁴ Para // Fcts & Resps Regs 2000

²⁵ s79 LGPIH Act 2007

²⁶ See Part 5A. The statutory context of the Code may change under the Localism Act.

²⁷ ss 4 and 5 Local Government (Misc Provisions) Act 1989

²⁸ The allocation of local choice functions is shown at Appendix //.

PART 3C

COMMITTEE FUNCTIONS

- 3C.1 Council has established²⁹ the Committees set out in Table 2 below to discharge certain functions which are neither reserved to Council nor Executive or solely Executive functions. Council retains the right to a concurrent and overriding exercise of all functions in Table 2.
- 3C.2 The Authority must have a Standards Committee³⁰ and at least one Overview and Scrutiny Committee³¹ and these are set out in Table 3 below.
- 3C.3 A Committee may establish such Sub-Committee(s) as it sees fit to undertake certain of its functions and the Tables below include such Sub-Committees.
- 3C.4 Unless otherwise required by law, a Committee or Sub-Committee in Table 2 may determine not to exercise a function delegated to it and refer that function upwards for determination by respectively Council or the parent Committee.

Table 2

PLANNING COMMITTEE	
Function	Condition
<p>Planning, etc. applications</p> <p>Determine an application for:</p> <ul style="list-style-type: none"> (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) conservation area consent; (f) advertisement control consent 	<p>The power shall only be exercised where the application:</p> <ul style="list-style-type: none"> (a) if granted, would be a departure from or would conflict with the development plan/local development framework or other planning policies adopted by the Council; (b) is for a proposal which an Officer intends to support and which has, prior to the expiry of the statutory consultation period, been objected to in writing by any local amenity organisation, any residents association or any statutory consultee; unless the Chairman and Vice Chairman consider that the objection is one which does not require Committee assessment; (c) is one in respect of which any Member has, prior to the expiry of the statutory consultation period, submitted a written request and explanation to the Director Environment that it be determined by the

²⁹ Pursuant to s101 LGA 1972, Licensing Act 2003, Gambling Act 2005

³⁰ Potentially due for repeal under Localism Act

³¹ Required by s21 LGA 2000

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	<p>Planning Committee;</p> <p>(d) is submitted by or on behalf of the Council or the Gloucestershire County Council;</p> <p>(e) is submitted by a Member, an Executive Director, Director or an existing employee of the Built Environment Division;</p> <p>(f) is one which the Planning Committee has specifically required should be determined by the Committee; or</p> <p>(g) is one which the Director Built Environment considers should be determined by Planning Committee</p>
<p>Trees</p> <p>Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.</p>	<p>The power shall only be exercised in respect of an application:</p> <p>(a) submitted by a (i) a Member, (ii) a current employee of the Built Environment or Operations Divisions of the Council or (iii) the Council or Gloucestershire County Council;</p> <p>(b) which a Member of the Council has, within the consultation period, requested should be determined by Planning Committee; or</p> <p>(c) which the Director Built Environment considers should be determined by Planning Committee</p>
<p>Planning Policy</p> <p>Act as consultee to Cabinet/Lead Member on recommendations/responses for the adoption and review of local and national planning policy</p>	<p>Adoption of local planning policy is a Council function</p>

LICENSING COMMITTEE	
Function	Condition
<p>Licensing Act 2003</p> <p>Act as consultee to Cabinet/Lead Member on recommendations/responses for the adoption and review of the Licensing Policy Statement and national licensing policy</p>	<p>Adoption of the Licensing Policy Statement is a Council function</p>
<p>Establish Licensing Sub-Committees</p>	
<p>Gambling Act 2005</p> <p>Act as consultee to Cabinet/Lead Member on recommendations/responses for the adoption and review of the Licensing Policy Statement and national licensing policy including policies on casinos</p>	<p>Adoption of the Licensing Policy Statement is a Council function</p>
<p>Determine an application for a premises licence</p>	<p>If a relevant representation made</p>
<p>Determine an application for a variation to a</p>	<p>If a relevant representation is made</p>

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premises licence	
Determine an application for a transfer of a premises licence	If a representation received from the Gambling Commission
Determine an application for a licence to be reinstated	If a relevant representation made
Determine an application for a provisional statement	If a relevant representation made
Review a premises licence	All cases
Determine an application for club gaming/club machine permit	If a relevant representation made
Cancel a club gaming/club machine permit	All cases
Consider a temporary use notice	If a relevant representation made
Decide to give a counter notice to a temporary use notice	All cases
Hackney Carriage and Private Hire	
Determine an application for the grant variation or renewal of a driver or vehicle licence	If a relevant objection is made
Determine an application for the grant or variation of an operator's licence	If a relevant objection is made
Determine an application for the transfer of a vehicle licence	If a relevant objection is made
Suspend or continue the suspension of a driver, vehicle or operator's licence	Where an officer chooses not to exercise delegated power
Revoke a driver, vehicle or operator licence	If a relevant representation is made
Adopt and amend standard conditions for hackney carriage and private hire licences	
Miscellaneous Licensing Functions (including Street trading, Street collections, House to house collections, Objects on the highway, Sex establishments, Caravan sites, Camping sites and moveable dwellings, Acupuncture, tattooing, ear-piercing and electrolysis, Game dealers, Scrapyards, Zoos, Dangerous wild animals)	
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	If a relevant objection is made
Revoke any licence, consent, permit or permission	If a relevant representation is made
LICENSING SUB-COMMITTEE	
Function	Condition
Licensing Act 2003	
Determine an application for a personal licence	If a police objection
Determine an application for a personal licence with unspent conviction(s)	All cases
Determine an application for a premises licence/club premises certificate	If a relevant representation made
Determine an application for a provisional statement	If a relevant representation made
Determine an application to vary a premises	If a relevant representation made

licence/club premises certificate	
Determine an application to vary a designated premises supervisor	If a police objection
Determine an application for transfer of a premises licence	If a police objection
To determine an application for interim authorities	If a police objection
Determine an application to review a premises licence/club premises certificate	All cases
Lodge an objection where the Council is a consultee and not the relevant authority considering the application	All cases
Determine a police objection to a temporary event notice	All cases
AUDIT COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated</i>	
APPOINTMENTS COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated</i>	
DISCIPLINARY COMMITTEE	
Function	Condition
APPEALS COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated</i>	

Table 3

STANDARDS COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated pending Localism Act</i>	
STANDARDS (INITIAL ASSESSMENT) SUB-COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated pending Localism Act</i>	
STANDARDS (REVIEW) SUB-COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated pending Localism Act</i>	
STANDARDS (DETERMINATION OF COMPLAINTS) SUB-COMMITTEE	
Function	Condition
<i>Current terms of reference to be incorporated pending Localism Act</i>	
OVERVIEW & SCRUTINY COMMITTEES	
Economy & Business Improvement	
Function	Condition
<i>Current terms of reference to be incorporated pending O&S review</i>	
Environment	
Function	Condition

<i>Current terms of reference to be incorporated pending O&S review</i>	
Social & Community	
Function	Condition
<i>Current terms of reference to be incorporated pending O&S review</i>	

PART 3D

OFFICER NON-EXECUTIVE FUNCTIONS

- 3D.1 All Non-Executive Functions³², other than those allocated in Parts 3B & C above, are delegated to the Chief Executive, Executive Directors and Directors as set out in Table 4 below.
- 3D.2 In addition, the Chief Executive, Executive Directors and Directors will exercise powers or duties specifically delegated to them by Council, Committee, Sub-Committee or Joint Committee.
- 3D.3 The Chief Executive, Executive Directors and Directors are not required to exercise all delegations personally and may sub-delegate any Function in this Part 3D to Officers of suitable experience and seniority in accordance with the process set out in Appendix []
- 3D.4 An Officer does not have delegated authority to take a Significant Decision³³ unless (a) specifically authorised to do so by Council, Committee, Sub-Committee or Joint Committee, or (b) the Chief Executive or Executive Director is taking action under urgency powers as set out in this Part 3D.
- 3D.5 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.
- 3D.6 Council or an Appropriate Committee may direct in any particular case that a delegated power to an Officer in respect of a Non-Executive Function shall not be exercised by the Officer and that the Function in question shall instead be exercised by the Council or Appropriate Committee. Such direction must be exercised in consultation with the Chief Executive or Appropriate Executive Director or Director(s).
- 3D.7 The Chief Executive, an Executive Director or Director may at their discretion refer any matter to Council or Appropriate Committee for decision.
- 3D.8 Officers have responsibility to report to Council, the Appropriate Committee, the Mayor or Appropriate Committee Chairman 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.

³² As set out in the Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended (see Appendix //)

³³ As defined in Article 13

3D.9 Article 13 'Decision Making' applies to the exercise of all Non-Executive Functions by Officers in this Part 3D.

Table 4

Chief Executive	
Function	Condition
Discharge any Non-Executive Function not otherwise allocated in Parts 3B-D of the Constitution	Unless prohibited by law
Discharge any Non-Executive Function which is delegated to an Officer under Part 3D	Where that Officer is absent or unable to act through conflict of interest or otherwise Except in the case of the Monitoring Officer or Chief Finance Officer where they have allocated the function to their deputy
Take any decision in respect of a Non-Executive Function, including a Significant Decision ³⁴ , in a situation where the matter is so urgent and important that it does not allow time for a report to be considered by Council or Appropriate Committee.	Except as specifically allocated to Council in Part 3B Table1. Wherever possible this shall be done in consultation with the Mayor or Appropriate Committee Chairman. The decision shall be reported to the next scheduled meeting of Council or the Appropriate Committee
Approve an urgent departure from the Budget or Policy Framework	In accordance with Rule 4 Budget & Policy Framework Rules ³⁵ The decision shall be reported to the next scheduled ordinary meeting of Council
Determine claims and payments in accordance with the scheme of Member Allowances	
Discharge functions and take actions and decisions in respect of elections, electoral registration, referenda and related legislation	Except as specifically allocated to Council in Part 3B Table1
Discharge functions and responsibilities with regard to parish councils	Except as specifically allocated to Council in Part 3B Table1
Undertake the functions of the Head of Paid Service including the duty, where he considers it appropriate to do so, of reporting to Council ³⁶ on the manner in which the Authority functions are co-ordinated, the number and grades of staff to discharge those functions and the organisation and proper management of those staff	

³⁴ As defined in Article 13

³⁵ See Part 4G

³⁶ s4 LG(MP)Act 1989

Approve reorganisation of functions and restructuring of staff within service areas and the transfer of staff and functions between service areas	Except where the Chief Executive considers it appropriate to refer a report to Council ³⁷
Approve redundancy of or an application for early retirement (including ill health retirement) of an employee	Except (in the case of the Chief Executive, an Executive Director or Director) as specifically allocated to Council or Committee in Part 3B Table 1 or 2. Subject to corporate HR policies
Approve HR procedures and policies which relate to employee terms and conditions of employment	
Undertake functions in respect of local government pensions	
Authorise any Officer to or for any legal purpose including Proper and Statutory Officer appointments ³⁸	Unless otherwise prescribed by law or allocated to Council in Part 3B
Executive Directors	
Function	Condition
Discharge any Non-Executive Function which is delegated to an Officer (including the Chief Executive) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise Except in the case of the Monitoring Officer or Chief Finance Officer where they have allocated the function to their deputy
Undertake the statutory role of Head of Paid Service	Where the Chief Executive is absent or unable to act through conflict of interest or otherwise. The role rests with the Executive Director who is deputising for that period
Director Resources	
Function	Condition
Undertake the functions of the Authority's Chief Financial Officer to ensure proper administration of the Authority's financial affairs ³⁹	
Approve ex gratia and maladministration compensation payments up to £5,000 ⁴⁰	In consultation with an Executive Director
Approve the carry forward of budget underspend to next financial year for same purpose as originally intended	
Make minor changes to the Financial Rules to reflect changes in fact and accounting and audit requirements/best practice	Executive Board and Group Leaders to be informed of any change which the Director considers to be significant
Make minor changes to the Contract Rules to reflect changes in fact and procurement	Borough Solicitor, Executive Board and Group Leaders to be informed of

³⁷ Under s4 LG(MP) Act 1989³⁸ See Appendix // for Proper and Statutory Officer appointments³⁹ s151 LGA1972⁴⁰ S92 LGA 2000

requirements and best practice	any change which the Director considers to be significant
Director Commissioning	
Function	Condition
Amend the Constitution to reflect changes of fact including changes in allocation of Functions	Executive Board, Borough Solicitor and Group Leaders to be informed of any change which the Director considers to be significant
Director Built Environment	
Function	Condition
Determine applications for: (a) full planning permission; (b) outline planning permission; (c) approval of reserved matters; (d) listed building consent; (e) conservation area consent; (f) advertisement control consent	Except as specifically allocated to Planning Committee under Part 3C Table 2
Determine planning applications relating to trees including (a) trees covered by Tree Preservation Orders: and (b) trees within Conservation Areas.	Except as specifically allocated to Planning Committee under Part 3C Table 2
Other actions and decisions (including enforcement, entry on to land and planning agreements) as local planning authority under the Town & Country Planning Act 1990, Planning (Listed Building & Conservation Area) Act 1990 and all planning related legislation	Except as specifically allocated to or by Council
Highway authority functions relating to on-street parking (as delegated to the Authority by the County Council)	
Authorise the stopping up or diversion of a highway, footpath or bridleway or extinguish public rights of way over land held for planning purposes ⁴¹	
Extinguish public right of way over land acquired for clearance ⁴²	
Undertake functions relating to high hedges and protection of important hedgerows ⁴³	
Director Wellbeing & Culture	
Function	Condition
Determine any application for the grant, renewal, variation or transfer of a licence, consent, permit or permission	Except as specifically allocated to Licensing Committee or Sub-Committee under Part 3C Table 2
Other actions and decisions (including enforcement and entry on to land) as	Except as specifically allocated to Council, Licensing Committee or

⁴¹ ss 247, 257, 258 TCPA 1990⁴² s294 Housing Act 1981⁴³ Part 8 Anti-Social Beh Act 2003 & Hedgerows Regs 1997

licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Sub-Committee under Part 3C Tables 1 and 2
Highway authority functions (as delegated to the Authority by the County Council)	Except as specifically allocated to Licensing Committee under Part 3C Table 2
Discharge all functions under the Health & Safety at Work etc. Act 1974 and other health and safety related legislation (otherwise than in the Authority's capacity as employer)	
Discharge all functions under food and food safety legislation which cannot be exercised as Executive Functions	
Chief Executive, Executive Directors & Directors	
Function	Condition
Appoint, dismiss and discipline employees within their service areas and determine their individual terms and conditions of employment and matters relating thereto	Director level and above is allocated to Members in Part 3C Table 2. Subject to Employment Rules (Part 4F) and corporate HR policies
Approve revenue budget virements between service areas/budget heads not exceeding £25,000	In consultation with Director Resources. If exceeding £10,000, Lead Member to be informed.
Set fees and charges and increase in line with inflation	Lead Member or Appropriate Committee Chairman to be informed
Borough Solicitor	
Function	Condition
Undertake the functions of the Monitoring Officer ⁴⁴ prescribed by law and in this Constitution	
Make minor changes to the Procedure Rules to reflect changes in fact, law and best practice	Executive Board and Group Leaders to be informed of any change which the Borough Solicitor considers to be significant

⁴⁴ Borough Solicitor appointed as Monitoring Officer by Council under s5 LG(MP) Act 1989 and seconded from Tewkesbury BC to the Authority for that purpose under s113 LGA 1972

PART 3E**EXECUTIVE FUNCTIONS****General**

- 3E.1 The Authority operates a Leader and Cabinet⁴⁵ 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 law⁴⁶ the Leader of the Council may discharge any 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 Council⁴⁷
 - (e) another local authority⁴⁸
 - (f) jointly with another local authority through a joint committee or officer⁴⁹

Delegations

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 5 'General Scheme of Delegation of Executive Functions' and Table 6 'Additional Delegation of Executive Functions to Officers'. In Table 5 reference to Lead Member means a Cabinet Member acting in portfolio as set out in Appendix [] and reference to 'Officer' means Chief Executive, Executive Director or Director.
- 3E.4 The Leader has directed that the Functions delegated to Cabinet and Lead 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 a Function is delegated in Tables 5 and 6 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 Function⁵⁰.
- 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 Chief Executive setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Chief Executive or in their absence an

⁴⁵ In December 2010 Council resolved to transfer from an 'old style' strong leader model (LGA 2000) to a strong leader arrangement under the LGPIH 2007 to take effect after the May 2012 Borough elections.

⁴⁶ LGA 2000 s14

⁴⁷ If permitted by the Leader - Cabinet, a Cabinet Committee, a Cabinet Member, another local authority, a joint committee or joint officer may also delegate Executive Functions to an Officer

⁴⁸ If permitted by the Leader - Cabinet, a Cabinet Committee, A Cabinet Member or an Officer may delegate Executive Functions to another local authority

⁴⁹ If permitted by the Leader - Cabinet, a Cabinet Committee, A Cabinet Member or an Officer may delegate Executive Functions to be exercised jointly with another local authority through a joint committee or an officer

⁵⁰ S48(4) LGA 2000

Executive Director. The Chief Executive will ensure that this Part 3 of the Constitution is updated forthwith.

- 3E.7 The Leader retains the right to a concurrent and overriding exercise of all Executive Functions⁵¹.
- 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 Chief Executive 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 by the Leader, Cabinet, Cabinet Members or Officers in this Part 3E.

Officer Delegations - Special Provisions

- 3E.10 The Chief Executive, Executive Directors and 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 in accordance with the process set out in Appendix []
- 3E.11 An Officer does not have delegated authority to take a Key Decision⁵² unless (a) specifically authorised to do so by the Leader or (b) the Chief Executive or Executive Director is taking action under urgency powers 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 Chief Executive or Appropriate Executive Director or Director(s).
- 3E.14 A Lead 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 the Officer and shall instead be exercised by them as Lead Member. Such direction must be exercised in consultation with the Chief Executive or Appropriate Executive Director(s) or Director(s) and the Leader.
- 3E.15 The Chief Executive, or Executive Director or a Director may at their discretion refer any matter to the Leader, the Cabinet or a Lead Member for decision.
- 3E.16 Officers have responsibility to report to the Leader, Cabinet or the Lead 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.

⁵¹ LGA 2000 s14

⁵² As defined in Article 13

Table 5 General Scheme of Delegation of Executive Functions

FUNCTION	Leader	Lead Member ⁵³	Cabinet	Joint Committee	Other Local Authority	Officer ⁵⁴
Policy & Strategy						
Recommend to Council all plans strategies and policies which comprise the Policy Framework ⁵⁵ 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 ⁵⁶			✓			CE
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval ⁵⁷	✓	✓				All
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 ⁵⁸)		✓				
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)						All
Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues	✓	✓				

⁵³ As defined in Appendix //⁵⁴ CE – Chief Executive, ED – Executive Director, DR – Director Commissioning, DR – Director Resources, All – Chief Executive, Executive Directors, Directors⁵⁵ As defined in Article 4⁵⁶ Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)⁵⁷ See Appendix //⁵⁸ Key Decision is defined in Article 13

Respond to all other consultations						CE / ED
Implement the Authority's Risk Management Policy & Strategy	✓	✓	✓	✓		All
Finance						
Prepare and consult on the Authority's Budget ⁵⁹ and recommend to Council for approval			✓			
Receive and consider quarterly budget monitoring reports			✓			
Take urgent decisions ⁶⁰ that are contrary to or not wholly in accordance with the Budget			✓			CE
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						All
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				✓		All
Assets & Property						
Agree asset management plan			✓			
Dispose of non-land assets with a value exceeding £2,500			✓			
Dispose of non-land assets with a value not exceeding £2,500						All
Make compulsory purchase order (CPO) ⁶¹			✓			
Acquire land or property following CPO						DR
Acquire other land or property or acquire a lease or			✓			

⁵⁹ As defined in Article 4⁶⁰ Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)⁶¹ Leg ref ////

tenancy agreement where the notional value exceeds £250,000						
Acquire other land or property or acquire a lease or tenancy agreement where the notional value does not exceed £250,000		✓				
Agree Void/Surplus Property Register in consultation with Asset Management Working Group						DR
Dispose of or exchange land or property with a notional value exceeding £250,000 including at an undervalue ⁶²			✓			
Dispose of or exchange land or property with a notional value exceeding £10,000 and not exceeding £250,000 including at an undervalue ⁶³		✓				
Dispose of or exchange land or property with a notional value not exceeding £10,000 including at an undervalue ⁶⁴						DR
Dispose of or exchange land or property where there is a statutory right to acquire						DR
Dedicate sell or lease land for highway purposes and for public utilities where this does not materially interfere with the proper management of the land/retained land or its investment value		✓				
Apply to Secretary of State to dispose of housing land under Housing Act 1985 ⁶⁵		✓				
Authorise the disposal of public open space ⁶⁶			✓			
Authorise the disposal of statutory allotments ⁶⁷			✓			
Allocate and re-allocate all Authority owned assets, land and property between service areas			✓			
Authorise a change in use of Authority owned land or property ⁶⁸		✓				

⁶² A disposal at less than best consideration requires Secretary of State specific approval or general consent

⁶³ A disposal at less than best consideration requires Secretary of State specific approval or general consent

⁶⁴ A disposal at less than best consideration requires Secretary of State specific approval or general consent

⁶⁵ Subject to Council authorisation (para // LG (Functions & Responsibilities Regulations) 2000)

⁶⁶ S1// LGA1972

⁶⁷ Stat refs //

⁶⁸ Planning permission may be required

Authorise lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value exceeds £250,000			✓			
Authorise lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value does not exceed £250,000						DR
Authorise assignment or surrender of lease/rights/privileges of a capital value exceeding £250,000			✓			
Authorise assignment or surrender of lease/rights/privileges of a capital value exceeding £10,000 and not exceeding £250,000		✓				
Authorise assignment or surrender of lease/rights/privileges of a capital value not exceeding £10,000						DR
Authorise rent subsidy to third party on Authority owned land			✓			
Grants						
Agree service level agreements and service level agreement funding in respect of voluntary organisations			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations exceeding £10,000 pa			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations not exceeding £10,000 pa		✓				
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				GJWC ⁶⁹	TBC/ CDC ⁷⁰	All

⁶⁹ Subject to the terms of the delegation agreement to the Glos Joint Waste Committee

⁷⁰ Subject to the terms of the delegation agreements to Tewkesbury BC and Cotswold DC

Undertake internal transformation and improvement of the Authority's services						CE
Commissioning & Contracts						
Approve the means by which the Authority's services will be provided including through a local authority 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 a Joint Committee or an Officer (including an officer of another local authority)			✓			
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 ⁷¹	✓					
Represent (or arrange for a Cabinet Member or Officer to represent) the Authority as shareholder in a company in which the Authority holds an interest	✓					
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services		✓				DC
Engage consultant or locum not exceeding £50,000 pa						All
Engage consultant or locum exceeding £50,000 pa			✓			
Accept tenders within budget and exceeding £500,000			✓			
Accept tenders within budget and not exceeding £500,000 and exceeding £100,000		✓				
Accept tenders and quotations within budget and not exceeding £100,000						All

⁷¹ Stat ref ///

Approve waiver to Contract Rules where the value is in excess of £50,000			✓			
Approve waiver to Contract Rules where the value does not exceed £50,000						ED
Approve waiver to Contract Rules where the Council's 'major incident plan' or business recovery plan is being activated						CE
Approve departure from Contract Rules for acceptance of tender or quotation			✓			
Approve departure from Contract Rules for acceptance of tender or quotation where urgent and with the prior approval of Leader						CE
Local Strategic Partnerships						
Establish a policy or strategic framework for a partnership			✓			
Establish a partnership's annual work programme and make in year changes	✓	✓				
Implement an agreed policy or strategy						All
Constitution & Democratic Process						
Make Key Decision ⁷²			✓			
Make urgent Key Decision ⁷³	✓		✓			CE / ED
Respond to call-in of a decision ⁷⁴	✓	✓	✓	✓	✓	All
Respond to petition to Council		✓				
Appoint and remove Cabinet Members and decide their portfolios	✓					
Establish Cabinet Committee or working group			✓			
Delegate Executive Function to an Officer	✓					
Delegate Executive Function to an Officer with prior consent of Leader		✓	✓			
Legal Services (One Legal)						
Undertake the role and functions of the Authority's					TBC ⁷⁵	

⁷² As defined in Article 13.

⁷³ The Leader, Chief Executive or Executive Directors may take an urgent key decision in accordance with para /// Access to Information Rules (Part 4//). Also see Table 6.

⁷⁴ Whoever took the decision will respond

⁷⁵ Tewkesbury BC pursuant to s101 LGA 1972/s19 LGA 2000. wef 30/11/09. See Appendix // for list of functions.

Borough Solicitor and chief legal officer and provide the Authority's legal service						
Finance, HR and Procurement (GO)						
<i>To be completed</i>					CDC ⁷⁶	
Waste						
<i>To be completed</i>				GJWC ⁷⁷		
General						
Undertake such specific Executive Function as may be allocated from time to time by the Leader	✓	✓	✓			All
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 Chief Executive requires an urgent decision before the next meeting of Cabinet	✓					

⁷⁶ Cotswold DC pursuant to s101 LGA 1972/s19 LGA 2000. wef 1/4/12. See Appendix // for list of functions.

⁷⁷ Gloucestershire Joint Waste Committee pursuant to s// LGA 2000. wef // //. See Appendix // for list of functions.

ADDITIONAL DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

3E.17 All Executive Functions, other than those allocated in Table 5 of this Part 3E, are delegated to the Chief Executive, Executive Directors and Directors as set out in Table 6 below.

3E.18 In addition, the Chief Executive, Executive Directors and Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member⁷⁸.

Table 6

Chief Executive	
Function	Condition
Discharge any Executive Function not otherwise allocated in Part 3E of the Constitution	
Discharge any Executive Function which is delegated to an Officer under Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise
Take any decision in respect of an Executive Function, including a Key Decision ⁷⁹ , in a situation where the matter is so urgent and important that it does not allow time for a report to be considered by the Leader, Cabinet or Lead Member.	Wherever possible this shall be done in consultation with the Leader and Lead Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
Authorise the use of the Authority's Coat of Arms and make arrangements for civic and twinning functions	
Authorising any Officer to or for any legal purpose including Statutory Officer appointments ⁸⁰	Unless otherwise prescribed by law or allocated to Council in Part 3B
The making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities ⁸¹	
Approve transformational change, cultural and organisational development policies	Except those relating to terms and conditions of employment ⁸²
Executive Directors	
Function	Condition
Discharge any Executive Function which is delegated to an Officer (including the Chief Executive) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.

⁷⁸ Cabinet or a Cabinet Member may only delegate to an Officer with the prior approval of the Leader

⁷⁹ As defined in Article 13

⁸⁰ See Appendix ?? for Proper and Statutory Officer appointments

⁸¹ s113 LGA 1972

⁸² This is a Non-Executive Function and is delegated in Part 3D

Undertake the role of Chief Executive	Where the Chief Executive 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	
Director Resources	
Function	Condition
Corporate Finance Council Tax Benefit Creditors Debtors Insurance Fraud Front Line Services Council Tax Housing Benefit Internal Audit IT & T Procurement Corporate Governance Risk Management Land/Property/Asset Management Public Toilets	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Committee or other local authority or other Officer under Part 3E
Director Commissioning	
Function	Condition
Elections & Electoral Registration Democratic Services & Scrutiny Shared Services Equalities Corporate Performance Community Development & Regeneration Voluntary/Community Groups Community Safety Partnerships Community & Young People Partnerships Communications Corporate Policy Strategic Commissioning CSP/Leader's Group South West Councils Parish Liaison Sustainability/Climate Change Twinning & Civic Housing - Public (client side) Street Cleaning (client side) Waste Services (client side) Recycling (client side) Complaints/maladministration	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Committee or other local authority or other Officer under Part 3E
Director Organisational Development & Change	
Function	Condition

Human Resources Learning & Organisational Development Payroll Pensions & Member Allowances	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Committee or other local authority or other Officer under Part 3E
Director Built Environment	
Function	Condition
Building Control Conservation & Urban Design Development Control Land Charges Planning Policy (inc Joint Core Strategy) Strategic Land Use Major Sites Development Transport Planning Sustainable Travel Car Parking (on and off street) inc enforcement Homelessness Housing Needs Housing - Private Housing Enabling Lifetime Housing Supporting People (Housing) Economic Development	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Committee or other local authority or other Officer under Part 3E
Director Wellbeing & Culture	
Function	Condition
Children & Young People - delivery Healthy Living Art Gallery & Museum Arts/Festivals/Entertainments Community Play Development Leisure@Cheltenham Sports Development Tourism Allotments Cemetery & Crematorium Tree Management & Protection (Parks) Parks & Open Spaces Licensing Health & Safety Environmental Health Environmental Pollution & Contaminated Land Community Safety Abandoned Vehicles Environmental maintenance/enforcement	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Committee or other local authority or other Officer under Part 3E