

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

- 3E.1 The Authority operates a Leader and Cabinet¹ 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 law² the Leader of the Council may discharge any Executive Functions and exercise any powers which are the responsibility of the Executive; alternatively the Leader may arrange for the discharge of any of those Functions by delegation to any of the following:-
- (a) the Cabinet
 - (b) a Cabinet Committee
 - (c) an individual member of the Cabinet (Cabinet Member)
 - (d) an officer of the Council³
 - (e) another local authority⁴
 - (f) jointly with another local authority through a joint committee or officer⁵

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 A and reference to 'Officer' means Chief Executive, Executive Director or Director.
- 3E.4 The Leader has directed that the Executive 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 an Executive Function is delegated in Tables 5 and 6 and Appendix A shall be empowered to take any step in the course of or otherwise for the purposes of or in connection with the discharge of the Function, do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function⁶.
- 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

¹ 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.

² LGA 2000 Part 1A Ss9E, 9EA, 9EB

³ 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

⁴ If permitted by the Leader - Cabinet, a Cabinet Committee, A Cabinet Member or an Officer may delegate Executive Functions to another local authority

⁵ 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

⁶ S48(4) LGA 2000

to whom the power is now to be delegated and to the Proper Officer⁷ setting out the change to be made; such amendment to take effect immediately on receipt by the Proper Officer. The Proper Officer will ensure that this Part 3 of the Constitution is updated forthwith.

- 3E.7 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.⁸
- 3E.8 In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.
- 3E.9 Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

Officer Delegations - Special Provisions

- 3E.10 The Chief Executive, Executive Directors, Directors and Borough Solicitor are not required to exercise all delegations personally and may sub-delegate any Function allocated under this Part 3E to officers of suitable experience and seniority in accordance with the process set out in Appendix D.
- 3E.11 An Officer does not have delegated authority to take a Key Decision⁹ unless (a) specifically authorised to do so by the Leader or (b) the Chief Executive (or, in their absence or where they are unable to act, an Executive Director) is taking an urgent decision¹⁰ as set out in this Part 3E¹¹.
- 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, a Lead Member 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 an 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.

⁷ The Chief Executive or, where they are absent or unable to act, the Borough Solicitor & Monitoring Officer

⁸ LGA 2000 s9E&

⁹ As defined in Article 13

¹⁰ As defined in Article 13

¹¹ See Tables 5 and 6

- 3E.15 The Chief Executive or Executive Director or a Director may at their discretion and in consultation with the Leader or Lead Member 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.

Part3

Responsibility for Functions
Table 5 General Scheme of Delegation of Executive Functions

FUNCTION	Leader	Lead Member ¹²	Cabinet	Joint Arrangements	Other Local Authority	Officer ¹³
Policy & Strategy						
Recommend to Council all plans strategies and policies which comprise the Policy Framework ¹⁴ 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 ¹⁵ that are contrary to or not wholly in accordance with the Policy Framework ¹⁶	✓		✓	✓		CE
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval ¹⁷	✓	✓				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 ¹⁸)		✓				

¹² As defined in Appendix A

¹³ CE – Chief Executive, ED –Executive Director, All – Chief Executive , Executive Directors, Directors

¹⁴ As defined in Article 4

¹⁵ As defined in article 13

¹⁶ Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)

¹⁷ See Appendix C

¹⁸ Key Decision is defined in Article 13

Part3**Responsibility for Functions**

FUNCTION	Leader	Lead Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
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	✓	✓				
Respond to all other consultations						CE /or ED
Implement the Authority's Risk Management Policy & Strategy	✓	✓	✓			All
Finance						
Prepare and consult on the Authority's Budget ¹⁹ and recommend to Council for approval			✓			
Receive and consider quarterly budget monitoring reports			✓			
Take urgent decisions ²⁰ that are contrary to or not wholly in accordance with the Budget ²¹	✓		✓	✓		CE
Make bid for funding with resource implications exceeding £250,000 accept the terms and conditions of that funding, if awarded.			✓			
Make bid for funding with resource implications exceeding £100,000 and not exceeding £250,000 accept the terms and conditions of that funding, if awarded.	✓	✓				
Make bid for funding with resource implications not exceeding £100,000 accept the terms and conditions of that funding, if awarded.						All
Propose to Council a contribution to reserves above the level set in the Budget			✓			

¹⁹ As defined in Article 4

²⁰ As defined in Article 13

²¹ Subject to Rule 4 Budget & Policy Framework Rules (Part 4G)

Part3**Responsibility for Functions**

Agree use of charging and trading powers		✓	✓			
Set fees and charges		✓				

FUNCTION	Leader	Lead Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
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			✓			
Make compulsory purchase order (CPO) ²²			✓			
Acquire land or property following CPO						ED Finance & Assets
Acquire other land or property or acquire a lease or tenancy agreement where the value exceeds £250,000			✓			Head of Property & AM or ED Finance & Assets ²³
Acquire other land or property or acquire a lease or tenancy agreement where the value does not exceed £250,000		✓				see footnote 23
Agree Void/Surplus Property Register in consultation with Asset Management Working Group						ED Finance & Assets
Dispose of or exchange land or property with a value exceeding £250,000 including at an undervalue ²⁴			✓			

²² For example, pursuant to S226(1) Town and Country Planning Act 1990, Section 17 Housing Act 1985, Section 47 Planning (Listed Buildings and Conservation Areas) Act 1990, Section 93 Local Government and Housing Act 1989, Section 121 Local Government Act 1972.

²³ In respect of decisions to purchase dwellings suitable for affordable housing subject to a budget allocation and conditions in the decision made by leader [01/11/2019](#))

²⁴ A disposal at less than best consideration requires Secretary of State specific approval or general consent

Part3**Responsibility for Functions**

Dispose of or exchange land or property with a value exceeding £10,000 and not exceeding £250,000 including at an undervalue ²⁵		✓				
FUNCTION	Leader	Lead Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Dispose of or exchange land or property with a value not exceeding £10,000 including at an undervalue ²⁶						ED Finance & Assets
Dispose of or exchange land or property where there is a statutory right to acquire						ED Finance & Assets
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 ²⁷		✓				
Authorise the disposal of or change the use of (appropriate) public open space ²⁸			✓			
Give public notice of a proposal to dispose of or change the use of public open space						ED Finance & Assets
Authorise the disposal of statutory allotments ²⁹			✓			
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 ³⁰		✓				
Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the ann. rental or capital value exceeds £250,000.			✓			

²⁵ A disposal at less than best consideration requires Secretary of State specific approval or general consent

²⁶ A disposal at less than best consideration requires Secretary of State specific approval or general consent

²⁷ Subject to Council authorisation (para // LG (Functions & Responsibilities Regulations) 2000)

²⁸ S121 & 123 LGA1972

²⁹ S32 Smallholdings & Allotments Act 1908

³⁰ Planning permission may be required

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Responsibility for Functions

FUNCTION	Leader	Lead Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Authorise the grant of 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						ED Finance & Assets
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value exceeding £250,000			✓			
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value exceeding £10,000 and not exceeding £250,000		✓				
Authorise transfer by the Authority or surrender or agree the surrender of lease/rights/privileges of a capital value not exceeding £10,000						ED Finance & Assets
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		✓				

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Responsibility for Functions

FUNCTION	Leader	Lead Member ³¹	Cabinet	Joint Arrangements	Other Local Authority	Officer ³²
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 ³³	TBC ₃₄	All
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 ³⁵			✓			
Arrange for any Executive Function to be exercised jointly ³⁶ with one or more local authorities through joint arrangements ³⁷			✓			
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 ³⁸	✓					

³¹ As defined in Appendix A

³² CE – Chief Executive, ED – Executive Director, All – Member of Executive Board or, Directors

³³ Subject to the terms of the delegation agreement to the Glos Joint Waste Committee

³⁴ Subject to the terms of the delegation agreements to Tewkesbury BC

³⁵ Reg 7 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

³⁶ Reg 11 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

³⁷ As described in Article 11

³⁸ Reg 11 (3A) Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

Part3**Responsibility for Functions**

FUNCTION	Leader	Lead Member ³⁹	Cabinet	Joint Arrangements	Other Local Authority	Officer ⁴⁰
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 ⁴¹	✓					
Represent (or arrange for a Cabinet Member or Officer to represent) the Authority as shareholder or member 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 housing services						MD of Place and Growth
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services						CE
Accept tenders within budget and exceeding £100,000 and authorise entering into the related Contract ⁴²		✓				
Accept tenders and quotations within budget and not exceeding £100,000 and authorise entering into the related Contract						All
Approve waiver to Contract Rules where the value is in excess of £100,000 ⁴³			✓			
Approve waiver to Contract Rules where the value does not exceed £100,000 ⁴⁴						All

³⁹ As defined in Appendix A

⁴⁰ CE– Chief Executive, ED – Executive Director, DC – Director Commissioning, All – Head of Paid Service Executive Directors, Directors

⁴¹ Reg 11 (3B) Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

⁴² The decision to award a contract above £100,000, which is within budget, is not a key decision under Article 13. The key decision (i.e. the budget expenditure in excess of £100,000) is made at budget setting. The decision to enter into of a contract is to facilitate the expenditure approved at budget setting and, accordingly, is not a key decision.

⁴³ In accordance with Rule 6.2.1 Contract Rules

⁴⁴ In accordance with Rule 6.2.2 Contract Rules

Part3

Responsibility for Functions

FUNCTION	Leader	Lead Member ⁴⁵	Cabinet	Joint Arrangements	Other Local Authority	Officer ⁴⁶
Approve waiver from Contract Rules where the value exceeds 100K and an urgent decision is required ⁴⁷						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
Neighbourhood Plans⁴⁸						
Designate neighbourhood area/forum			✓			
Adopt a neighbourhood development plan and a neighbourhood development order			✓			
Constitution & Democratic Process						
Make Key Decision ⁴⁹		✓ ⁵⁰	✓			Head of Property & AM or ED Finance & Assets ⁵¹
Make urgent Key Decision ⁵²	✓		✓			CE
Respond to call-in of a decision ⁵³	✓	✓	✓	✓	✓	All
Respond to petition to Council		✓				
Appoint and remove Cabinet Members and decide their portfolios	✓					

⁴⁵ As defined in Appendix A

⁴⁶ CE – Chief Executive ED – Executive Director, All – Member of Executive Board or , Directors

⁴⁷ In accordance with Rule 6.2.1 Contract Rules

⁴⁸ See Neighbourhood Planning protocol agreed by Council 14 Dec 2015

⁴⁹ As defined in Article 13.

⁵⁰ Lead Member in respect of the spending on individual elements of the Cheltenham Transport Plan

⁵¹ In respect of decisions to purchase dwellings suitable for affordable housing, subject to budget allocation, and decision made by leader 14/05/19

⁵² The Leader, Chief Executive (or, in their absence or where he is unable to act, an Executive Director) may take an urgent key decision in accordance with Rule 16 Access to Information Rules (Part 4E). Also see Table 6.

⁵³ Whoever took the decision will respond

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Responsibility for Functions

Establish Cabinet Committee or working group			✓			
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	✓					
FUNCTION	Leader	Lead Member ⁵⁴	Cabinet	Joint Arrangements	Other Local Authority	Officer ⁵⁵
		✓	✓			
Delegate Executive Function to an Officer with prior consent of Leader pursuant to 3E.4		✓	✓			
Undertake such specific Executive Function as may be allocated from time to time by the Leader	✓	✓	✓			All
Undertake such specific Executive Function as may be delegated from time to time by Cabinet						✓
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 Leader directs it should be exercised by a Cabinet Member		✓				
Undertake any Executive Function which is delegated to an Officer where the Lead Member directs it should be exercised by themselves in accordance with Rule 3E.14		✓				
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓			
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to a Cabinet Member		✓				
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	✓					

⁵⁴ As defined in Appendix A

⁵⁵ CE – Chief Executive, ED – Executive Director, All – Member of Executive Board or Directors

Part3**Responsibility for Functions**

Cabinet which in the opinion of the Chief Executive requires an urgent decision before the next Cabinet meeting.						
FUNCTION	Leader	Lead Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree ⁵⁶	✓					
Legal Services						
Undertake the role and functions of the Authority's Borough Solicitor and chief legal officer and provide the Authority's legal service					TBC ⁵⁷	
Waste						
Undertake functions of the Authority in respect of waste collection, recycling and street cleansing except for those functions reserved to the Authority ⁵⁸				GJWC ⁵⁹		

⁵⁶ Where there is no Group Leader consensus on an appointment or nomination or revocation or withdrawal of such, the matter will be referred to Council for decision

⁵⁷ Tewkesbury BC pursuant to s101 LGA 1972/s19 LGA 2000. wef 30/11/09. See Appendix A.

⁵⁸ See CE functions in Table 6

⁵⁹ Gloucestershire Joint Waste Committee pursuant to Part 1A s9EB LGA 2000. wef 1/4/13. See Appendix A

⁶³ subject to the terms of the delegation agreement to the 2020 Partnership Joint Committee as set up on 1 April 2016 (comprising Cheltenham Cotswold Forest of Dean and West Oxfordshire District Councils)

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, Member of the Executive Board, Directors and the Borough Solicitor as set out in Table 6 below.

3E.18 In addition, the Chief Executive, Members of the Executive Board and Directors will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member⁶⁰.

Table 6

Chief Executive	
Function	Condition
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 an urgent decision ⁶¹ in respect of an Executive Function (excluding a key decision ⁶²) in a situation where there is not sufficient 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	
Authorise any Officer to or for any legal purpose including Statutory Officer appointments ⁶³	Unless otherwise prescribed by law or allocated to Council in Part 3B
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities ⁶⁴	
Approve transformational change, cultural and organisational development strategy and associated policies	Except those relating to terms and conditions of employment ⁶⁵ of Executive Officers

⁶⁰ Cabinet or a Cabinet Member may only delegate to an Officer with the prior approval of the Leader

⁶¹ As defined in Article 13.

⁶² The Chief Executive may take an urgent key decision in accordance with Table 5 and Rule 16 Access to Information Rules (Part 4E)

⁶³ See Appendix F for Proper and Statutory Officer appointments

⁶⁴ s113 LGA 1972

⁶⁵ This is a non-Executive Function and is delegated in Part 3D

Executive Directors and Directors	
Function	Condition
Discharge any Executive Function which is delegated to an Officer (including the Head of Paid Service) under this Part 3E	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Head of Paid Service	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	
Function	Condition
Functions in respect of service areas and matters allocated in Appendix A	Except those Functions which are specifically allocated to Cabinet or a Cabinet Member, Joint Arrangements or other local authority or other Officer under Part 3E
Borough Solicitor	
Function	Condition
Make minor changes to the Constitution to reflect changes in fact, law and best practice and rectify errors and inconsistencies	Executive Board and Group Leaders to be informed of any change which the Borough Solicitor considers to be significant
To authorise Officers to represent the Authority before a court or tribunal pursuant to: - (a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: - (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 (b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007 (c) The Lay Representatives (Rights of Audience) Order 1999	

Chief Executive	
Function	Condition
In respect of joint waste: authorising changes to the inter authority agreement ⁶⁶ budget setting; service charges; collection and disposal methods and policy changes to such collection and disposal methods; procurement decisions in respect of the Functions; enforcement proceedings or other legal action in respect of the Functions and corporate media communications.	

⁶⁶ Dated 1 April 2013