

PART 3

Responsibilities for Functions

Part 3D – Officer Non-Executive Functions

- 3D.1 All non-Executive Functions¹, other than those allocated in Parts 3B & C above, are delegated to ~~the Executive Directors and Directors~~officers as set out in Table 4 below.
- 3D.2 In addition, ~~the Executive Directors and Directors~~officers will exercise powers or duties specifically delegated to them by Council, Committee, Sub-Committee or Joint Committee.
- 3D.3 ~~The Executive Directors and Directors~~Officers 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 D~~Part 3E.
- 3D.4 An Officer does not have delegated authority to take a Significant Decision² unless (a) specifically authorised to do so by Council, Committee, Sub-Committee or Joint Committee, or (b) the Chief Executive (or, in ~~his or her~~their absence or where ~~he/she~~is they are unable to act, an 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.
- 3D.7 The Chief Executive, 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.
- 3D.9 Article 13 'Decision Making' applies to the exercise of all Non-Executive Functions by Officers in this Part 3D.

¹ As set out in the Local Authority (Functions & Responsibilities) (England) Regulations 2000 as amended (see Appendix E)

² ~~As defined in Article 13~~

Table 4 (Non-Executive functions of Officers)

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 an urgent decision ³ in respect of a non-Executive Function, including a Significant Decision ⁴ , in a situation where there is not sufficient time for a report to be considered by Council or Appropriate Committee.	Unless it is a decision that in law can only be made by Council. 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
Take an urgent decision not in accordance with the Budget or the Policy Framework	In accordance with Rule 4 Budget & Policy Framework Rules ⁵ The decision shall be reported to the next available 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 ⁶ 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	

³ As defined in Article 13

⁴ As defined in Article 13

⁵ See Part 4G

⁶ 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 Head of Paid Service considers it appropriate to refer a report to Council ⁷
Approve redundancy of or an application for early retirement (including ill health retirement) of an employee	Except (in the case of the Head of Paid Service, an Executive Leadership Team Member or Director) as specifically allocated to Council or Committee in Part 3B Table 1 or and Part 3C Table 2. Subject to corporate HR policies
Approve HR procedures and policies which relate to employee terms and conditions of employment	Except as specifically allocated to Appointments and Remuneration Committee in Part 3C Table2
Undertake functions in respect of local government pensions	Except as specifically allocated to Appointments and Remuneration Committee in Part 3C Table2
Authorise any Officer for any legal purpose including Proper and Statutory Officer appointments ⁸	Unless otherwise prescribed by law or allocated to Council in Part 3B
Grant dispensations to Cabinet Members to allow them to participate in consultation on executive decisions where they have a conflict of interest ⁹	

Executive Directors	
Function	Condition
Discharge any Non-Executive Function which is delegated to an Officer (including the Chief Executive) under this 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
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.

Chief Finance Officer Executive Director for Finance, Assets and Regeneration	
Function	Condition
Undertake the functions of the Authority's Chief Financial Officer to ensure proper administration of the Authority's financial affairs	

⁷ Under s4 LG(MP) Act 1989

⁸ See Appendix F for Proper and Statutory Officer appointments

⁹ Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Approve ex gratia and maladministration compensation payments up to £5,000 ¹⁰	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 Leadership Team and Group Leaders to be informed of any change which the Director considers to be significant

Chief Executive Monitoring Officer	
Function	Condition
Amend the Constitution to reflect changes of fact including changes in allocation of Functions	Executive Leadership Team, Borough Solicitor and Group Leaders to be informed of any change which the Director <u>Monitoring Officer</u> considers to be significant
Make minor changes to the Contract Rules to reflect changes in fact and procurement requirements and best practice	Borough Solicitor, Executive Leadership Team and Group Leaders to be informed of any change which the Director <u>Monitoring Officer</u> considers to be significant
Undertake the functions of the Monitoring Officer ¹⁴ —prescribed by law and in this Constitution	
Make minor changes to the Constitution to reflect changes in fact, law and best practice and rectify errors and inconsistencies	Executive Leadership Team and Group Leaders to be informed of any change which the Monitoring Officer considers to be significant
<p>Receive complaints in writing regarding allegations of failure to comply with the Members' Code of Conduct and</p> <ul style="list-style-type: none"> to determine, after consultation with the Independent Person(s), whether a complaint should be investigated and to arrange such investigation; to seek local resolution of complaints without formal investigation where it is possible to do so; to close a complaint if the investigation finds no evidence of failure to comply with the Code of Conduct; to agree a local resolution where an investigation finds evidence of a failure to comply with the Code of Conduct, subject to consultation with the Independent Person(s) and the 	

¹⁰ S92 LGA 2000

¹⁴ ~~The Monitoring Officer is appointed by Council under s5 LG(MP) Act 1989 and seconded from Tewkesbury BC to the Authority for that purpose under s113 LGA 1972~~

<p>complainant being satisfied with the proposed resolution;</p> <ul style="list-style-type: none"> • to grant dispensations if, after considering all of the circumstances of the case, the Monitoring Officer considers:- <ul style="list-style-type: none"> (a) that the business will be impeded because of the number of Members prohibited from participating; (b) that without the dispensation the political proportionality would be distorted to alter the outcome of the vote. 	
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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 Chief Finance Officer. If exceeding £10,000, Cabinet Member to be informed.
Set fees and charges and increase in line with inflation for non-Executive functions	Cabinet Member or Appropriate Committee Chairman to be informed

Director of Communities and Economic Development	
Function	Condition
Determine applications for: <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 	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 ¹²	
Extinguish public right of way over land acquired for clearance ¹³	
Undertake functions relating to high hedges and protection of important hedgerows ¹⁴	

Head of Public Protection	
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
Suspend or continue the suspension of a hackney carriage or private hire driver, vehicle or operator's licence	Where public safety is at risk
Revoke or withdraw 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, entry on to land and waiving of fees) as licensing authority under the Licensing Act 2003, Gambling Act 2005 and all other licensing legislation	Except as specifically allocated to Council, Licensing Committee or 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	

¹² ss 247, 257, 258 TCPA 1990

¹³ s294 Housing Act 1981

¹⁴ Part 8 Anti-Social Beh Act 2003 & Hedgerows Regs 1997