

## Part 3E – Executive Functions

- 3E.1 The Authority operates a Leader and Cabinet 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 law 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 Council
  - (e) another local authority
  - (f) jointly with another local authority through a joint committee or officer

### Delegations

- 3E.3 The Leader has exercised their power of delegation in the manner set out below in Table 5 ‘Scheme of Delegation of Executive Functions’ and Table 6 ‘Additional Delegation of Executive Functions to Officers’. In Table 5 reference to ‘Cabinet Member’ means a Cabinet Member acting in portfolio 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 Cabinet Members as set out in Table 5 shall not be sub-delegated to Officers without their prior consent.
- 3E.5 Each person or body to whom an Executive Function is delegated in Tables 5 and 6 and 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 Function.
- 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 Proper Officer<sup>1</sup> 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.
- 3E.8 In the absence of the Leader the Deputy Leader is authorised to exercise the functions of the Leader pursuant to the Constitution.

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<sup>1</sup> The Chief Executive or, where they are absent or unable to act, the Monitoring Officer

3E.9 Article 13 'Decision Making' applies to the exercise of all Executive Functions in this Part 3E.

### **Officer Delegations - Special Provisions and Sub-delegations**

3E.10 The Chief Executive, Executive Directors, Directors and Director of One Legal 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 following process:.

3E.11 An Officer does not have delegated authority to take a Key Decision<sup>2</sup> 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 decision<sup>3</sup> as set out in this Part 3E<sup>4</sup>.

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 Cabinet Member or Cabinet. Such direction must be exercised in consultation with the Chief Executive or Appropriate Executive Director or Director(s).

3E.14 A Cabinet 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 Cabinet 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 and in consultation with the Leader or Cabinet Member refer any matter to the Leader, the Cabinet or a Cabinet Member for decision.

3E.16 Officers have responsibility to report to the Leader, Cabinet or the Cabinet 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

### **Sub-delegations**

3E.17 A Director is not required to exercise all delegations personally and may sub-delegate functions to a Service Manager or other Employee in any of their service areas provided the following conditions are met:

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<sup>2</sup> As defined in Article 13

<sup>3</sup> As defined in Article 13

<sup>4</sup> See Tables 5 and 6



- a) the Director is satisfied that
  - (i) the Service Manager or other Employee has suitable experience and seniority to undertake those functions, and
  - (ii) the sub-delegation is in the interest of the efficient operation of the Council's business;
- b) there is prior consultation with the appropriate Cabinet Member or Committee Chair; and
- c) the Director records the details of sub-delegation on a register which is kept by them

3E.18 The Chief Executive and Executive Directors may also sub-delegate direct to a Service Manager or other Employee subject to the same conditions.

## Table 5 Scheme of Delegation of Executive Functions

In this table the following abbreviations have the following meanings:

CEO: Chief Executive

ED: Executive Director

MO: Monitoring Officer

All: Chief Executive, Executive Directors and Directors

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
<b>Policy and Strategy</b>						
Recommend to Council all plans strategies and policies which comprise the Policy Framework 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	✓		✓	✓		CEO
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	✓	✓				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)		✓				

Function	Leader	Cabinet 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						CEO or ED
Implement the Authority's Risk Management Policy & Strategy	✓	✓	✓			All
<b>Finance</b>						
Prepare and consult on the Authority's Budget and recommend to Council for approval			✓			
Receive and consider quarterly budget monitoring reports			✓			
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	✓		✓	✓		CEO
Make bid for external funding or accept grant funding where the amount of funding exceeds £2 million <sup>5</sup> and to accept the terms and conditions of that funding, if awarded.			✓			All
Make bid for external funding or accept grant funding where the amount of funding exceeds £500,000 but does not exceed £2 million and to accept the terms and conditions of that funding, if awarded	✓	✓				

<sup>5</sup> In cases where the funding bid or grant exceeds £2million and the deadline for submission or acceptance makes it impossible to seek a Cabinet decision the bid or acceptance may be approved by the CEO or an Executive Director in consultation with the Leader or relevant Cabinet Member. As a matter of good practice other Group Leaders will be notified of the proposed decisions and details of the submission or acceptance will be reported to the next meeting of the Cabinet.

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Make bid for external funding or accept grant funding where the amount of funding is less than £500,000 and to 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			✓			
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
<b>Assets and Property</b>						
Agree asset management plan			✓			
Make compulsory purchase order (CPO)			✓			
Acquire land or property following CPO						ED of finance, assets & regeneration
Acquire other land or property or acquire a lease or tenancy agreement where the value exceeds £500,000			✓			Director of Finance and Assets or ED of Finance, Assets & Regeneration

<sup>6</sup> 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](#))

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Acquire other land or property or acquire a lease or tenancy agreement where the value does not exceed £500,000		✓				See footnote 6
Agree Void/Surplus Property Register in consultation with Asset Management Working Group						ED of finance, assets & regeneration
Dispose of or exchange land or property with a value exceeding £500,000 including at an undervalue			✓			
Dispose of or exchange land or property with a value exceeding £10,000 and not exceeding £500,000 including at an undervalue		✓				
Dispose of or exchange land or property with a value not exceeding £50,000 including at an undervalue						ED of finance, assets & regeneration
Dispose of or exchange land or property where there is a statutory right to acquire						ED of finance, assets & regeneration
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		✓				
Authorise the disposal of or change the use of (appropriate) public open space			✓			

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Give public notice of a proposal to dispose of or change the use of public open space						ED of finance, assets & regeneration
Authorise the disposal of statutory allotments			✓			
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		✓				
Authorise the grant of lease/rights/privileges of all Council owned land or property to external bodies where the annual rental or capital value exceeds £250,000.			✓			
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 of finance, assets & regeneration
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 of finance, assets & regeneration



Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Authorise rent subsidy to third party on Authority owned land			✓			
<b>Grants</b>						
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 £50,000 pa			✓			
Make one off grants (excluding rent subsidy on Authority owned land) to voluntary organisations not exceeding £50,000 pa		✓				
<b>Service Delivery</b>						
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				Subject to the terms of the delegation agreement with Ubico	Subject to the terms of the delegation agreement to Tewkesbury Borough Council	All
Undertake internal transformation and improvement of the Authority's services						CEO

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
<b>Commissioning and Contracts</b>						
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 <sup>7</sup>			✓			
Arrange for any Executive Function to be exercised jointly <sup>8</sup> with one or more local authorities through joint arrangements <sup>9</sup>			✓			
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	✓					
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						ED of Place and Communities

<sup>7</sup> Reg 7 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

<sup>8</sup> Reg 11 Local Authorities (Arrgmts for Discharge of Functions) (Eng) Regs 2000

<sup>9</sup> As described in Article 11

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services						CEO
Accept tenders within budget and exceeding £100,000 and authorise entering into the related Contract <sup>10</sup>		✓				
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 <sup>11</sup>			✓			
Approve waiver to Contract Rules where the value does not exceed £100,000 <sup>12</sup>						All
Approve waiver from Contract Rules where the value exceeds £100K and an urgent decision is required <sup>13</sup>						CEO
<b>Local Strategic Partnerships</b>						
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
<b>Neighbourhood Plans<sup>14</sup></b>						
Designate neighbourhood area/forum			✓			

<sup>10</sup> 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.

<sup>11</sup> In accordance with Rule 6.2.1 Contract Rules

<sup>12</sup> In accordance with Rule 6.2.2 Contract Rules

<sup>13</sup> In accordance with Rule 6.2.1 Contract Rules

<sup>14</sup> See Neighbourhood Planning protocol agreed by Council 14 Dec 2015

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Adopt a neighbourhood development plan and a neighbourhood development order			✓			
<b>Localism Act</b>						
Determine applications to register Assets of Community Value						Director of Planning, Environmental & Regulatory services
Determine Appeals against applications to register Assets of Community Value						ED of Place and Communities or MO
<b>Constitution and Democratic Process</b>						
Make Key Decision <sup>15</sup>		✓ <sup>16</sup>	✓			Director of Finance and Assets or ED of Finance, Assets & Regeneration
Make urgent Key Decision <sup>17</sup>	✓		✓			CEO
Respond to call-in of a decision <sup>18</sup>	✓	✓	✓	✓	✓	All ✓
Respond to a petition to Council		✓				
Appoint and remove Cabinet Members and decide their portfolios	✓					
Establish Cabinet Committee or working group			✓			

<sup>15</sup> As defined in Article 13.

<sup>16</sup> Cabinet Member in respect of the spending on individual elements of the Cheltenham Transport Plan

<sup>17</sup> 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.

<sup>18</sup> Whoever took the decision will respond

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Delegate Executive Function to a Cabinet Member or Officer pursuant to 3E.6	✓					
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 Cabinet 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	✓					

Function	Leader	Cabinet Member	Cabinet	Joint Arrangements	Other Local Authority	Officer
Undertake any Executive Function delegated to Cabinet which in the opinion of the Chief Executive requires an urgent decision before the next Cabinet meeting.	✓					
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 <sup>19</sup>	✓					
<b>Legal Services</b>						
Undertake the role and functions of the Authority's chief legal officer and provide the Authority's legal service					Subject to the terms of the delegation agreement to Tewkesbury Borough Council	
<b>Waste</b>						
Undertake functions of the Authority in respect of waste collection, recycling and street cleansing except for those functions reserved to the Authority <sup>20</sup>				Subject to the terms of the delegation agreement with Ubico		

<sup>19</sup> 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

<sup>20</sup> See CE functions in Table 6

## Additional delegation of Executive Functions to Officers

3E.19 All Executive Functions, other than those allocated in Table 5 of this Part 3E, are delegated to the Chief Executive, Member of the Executive Directors, Directors and the Director of One Legal as set out in Table 6 below.

3E.20 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 Member<sup>21</sup>.

**Table 6**

Function	Condition
<b>Chief Executive</b>	
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 in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader, Cabinet or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet 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	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	
Approve transformational change, cultural and organisational development strategy and associated policies	Except those relating to terms and conditions of employment <sup>22</sup> of Executive Officers
In respect of joint waste: <ul style="list-style-type: none"> <li>authorising changes to the inter authority agreement<sup>23</sup></li> <li>budget setting;</li> <li>service charges;</li> <li>collection and disposal methods and policy changes to such collection and disposal methods;</li> <li>procurement decisions in respect of the Functions;</li> <li>enforcement proceedings or other legal action in respect of the Functions and</li> <li>corporate media communications.</li> </ul>	

<sup>21</sup> Cabinet or a Cabinet Member may only delegate to an Officer with the prior approval of the Leader

<sup>22</sup> This is a non-Executive Function and is delegated in Part 3D

<sup>23</sup> Dated 1 April 2013

<b>Function</b>	<b>Condition</b>
<b>Executive Directors and Directors</b>	
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	
Functions in respect of service areas	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
<b>Director of One Legal</b>	
<p>To authorise Officers to represent the Authority before a court or tribunal pursuant to: -</p> <ul style="list-style-type: none"> <li>(a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: <ul style="list-style-type: none"> <li>(i) Section 223 of the Local Government Act 1972</li> <li>(ii) Section 60 of the County Courts Act 1984</li> </ul> </li> <li>(b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007</li> <li>(c) The Lay Representatives (Rights of Audience) Order 1999</li> </ul>	