

# **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

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### **FULL COUNCIL**

The Council is responsible for all functions of the Authority. For the effective and efficient management of its services, the Council has appointed Committees to undertake responsibility for all matters other than those specifically reserved to it or delegated directly to Officers. This part of the Constitution sets out the Terms of Reference and Scheme of Delegations whereby such responsibility has been devolved.

Where any matter falls under the terms of reference of more than one committee, the Council may designate one committee a "lead committee". The lead committee shall then have all the powers and functions of other relevant committees in relation to that matter. It may if it wishes refer any aspect of the matter to another committee for decision, comment back to the lead Committee or make a recommendation to Full Council.

### **MATTERS RESERVED TO FULL COUNCIL AND TERMS OF REFERENCE OF COMMITTEES**

Matters reserved to Council subject to Article 4 of Part 2:-

- (a) All matters specifically reserved to Council by regulation and statute.
- (b) To approve and keep under review the Constitution of the Council.
- (c) To appoint and, where the occasion arises, to dismiss the Leader/Spokesperson of the Council.
- (d) To approve the procedures for and the appointment of Committees and such other bodies as the Council may decide.
- (e) To appoint the Chairmen and Vice-Chairmen of Committees and to determine their memberships.
- (f) To make appointments to outside organisations to which the Council is entitled to appoint representatives.

- (g) To adopt, with or without amendment, statutory and major non-statutory policies, plans and strategies (the "policy framework") recommended to it, including:-
- Best Value Performance Plan
  - Community Care Plan
  - Community Strategy
  - Crime & Disorder Reduction Strategy
  - Plans and strategies which together comprise the Development Plan
  - Council's Corporate Plan (if any)
  - Plans or strategies for the control of the Council's borrowing or capital expenditure
  - Plans or strategies or draft plans or strategies of any of the above descriptions which have to be submitted to the Secretary of State or a Minister for approval
  - Food Safety Service Plan
  - The plan and strategy which comprise the Housing Investment Programme
  - Local Agenda 21 Strategy
  - IS/ICT Strategy
  - Asset Management Plan
  - Leisure and Cultural Strategy
  - Licensing Policy Statement
  - Gambling Policy Statement,
- (h) To approve the Members' Allowances Scheme.
- (i) To approve, with or without amendment, the Council's budget and the Council Tax for the District recommended to it by the Policy, Finance & Strategic Performance Committee.
- (j) To provide an opportunity for members of the public to ask questions or make statements about any aspects of Council policy.
- (k) To receive reports from its Committees and from Officers.
- (l) To promote and oppose Bills and Orders in Parliament.

- (m) To carry out any other functions required by statute to be discharged by the Council.
- (n) To make and revoke Byelaws.
- (o) To deal with matters relating to elections, including considering proposals relating to status and the variation of District boundaries, electoral divisions, wards and polling districts.
- (p) To determine any decision of a Policy Committee, not yet implemented, referred to it by the Review Committee.
- (q) To consider proposals to establish, dissolve or group Parish Councils and fix the number of Parish Councillors.
- (r) To authorise applications to the Secretary of State for the transfer of housing land or stock owned by the Council.
- (s) To discuss Notices of Motion submitted in accordance with the Rules of Procedure.

<b>COMMITTEE</b>	<b>MEMBERSHIP</b>	<b>FUNCTION</b>
<b>Policy Committees</b>		
POLICY, FINANCE & STRATEGIC PERFORMANCE COMMITTEE	11 MEMBERS OF THE AUTHORITY	<p>To exercise the Council's functions in relation to all matters not otherwise reserved to Full Council or the responsibility of another Committee with particular reference to:-</p> <ul style="list-style-type: none"> <li>• Corporate Strategy</li> <li>• Strategic Performance</li> <li>• Finance</li> <li>• Council Budget</li> <li>• Support Services</li> </ul> <p>Including the formulation and implementation of the policy framework and management of the budget in respect of these functions.</p>
COMMUNITY SERVICES COMMITTEE	11 MEMBERS OF THE AUTHORITY	<p>To exercise the Council's functions in relation to:-</p> <ul style="list-style-type: none"> <li>• Community Health &amp; Social Care</li> <li>• Crime &amp; Disorder</li> <li>• Voluntary Sector</li> <li>• Emergency Planning Policy</li> <li>• Housing (public &amp; private sector)</li> </ul> <p>Including the formulation and implementation of the policy framework and management of the budget in respect of these functions.</p>
ENVIRONMENTAL SERVICES COMMITTEE	11 MEMBERS OF THE AUTHORITY	<p>To exercise the Council's functions in relation to:-</p> <ul style="list-style-type: none"> <li>• Environment</li> <li>• Woodlands &amp; Countryside</li> <li>• Health &amp; Safety</li> <li>• Environmental Health</li> <li>• Street Cleansing</li> <li>• Recycling</li> <li>• Waste Collection &amp; Disposal</li> <li>• Sustainability</li> </ul> <p>Including the formulation and implementation of the policy framework and management of the budget in respect of these functions.</p>

LEISURE TOURISM & HERITAGE COMMITTEE	11 MEMBERS OF THE AUTHORITY	To exercise the Council's functions in relation to:- <ul style="list-style-type: none"> <li>• Recreation</li> <li>• Culture</li> <li>• Leisure</li> <li>• Heritage</li> <li>• Tourism</li> <li>• Grounds Maintenance</li> </ul> Including the formulation and implementation of the policy framework and management of the budget in respect of these functions.
PLANNING POLICY & TRANSPORTATION COMMITTEE	11 MEMBERS OF THE AUTHORITY	To exercise the Council's functions in relation to:- <ul style="list-style-type: none"> <li>• Highways</li> <li>• Planning Policy</li> <li>• Regeneration</li> <li>• Transportation</li> <li>• Local Development Framework</li> <li>• Building Control Policy</li> <li>• Economic Development</li> </ul> Including the formulation and implementation of the policy framework and management of the budget in respect of these functions.
<b>Regulatory and Probity Committees</b>		
DEVELOPMENT CONTROL COMMITTEE	39 MEMBERS OF THE AUTHORITY	To exercise the Council's functions in relation to:- <ul style="list-style-type: none"> <li>• Town &amp; Country Planning Regulation (including the grant of planning permissions)</li> <li>• Dangerous, Neglected or Derelict Premises</li> <li>• Building Control Regulation</li> </ul> Including the management of the budget in respect of these functions.
APPEALS COMMITTEE	6 MEMBERS OF THE AUTHORITY	To exercise the Council's functions in relation to all appeals and licensing matters except those that fall within the remit of the Licensing Committee or are committed to another Committee.
LICENSING COMMITTEE	15 MEMBERS OF THE AUTHORITY	To exercise the Council's functions under the Licensing Act 2003, the Gambling Act 2005 and all associated or amending legislation.

AUDIT COMMITTEE	11 MEMBERS OF THE AUTHORITY	To exercise the Council's functions in relation to:- <ul style="list-style-type: none"> <li>• Matters arising out of internal audit and control reports</li> <li>• The scope of internal audit activity</li> <li>• Review of the adequacy of governance and risk management arrangements and internal control</li> <li>• Consideration of matters arising from external audit as are referred to it by the External Auditor</li> </ul> Including the management of the budget in respect of these functions.
EMERGENCY PLANNING COMMITTEE	Leader of the Council  Chief Executive  Chairmen of Policy Committees	To convene at the request of the Chief Executive to exercise the Council's functions in relation to emergencies requiring urgent action to deal with specific incidents.
STANDARDS COMMITTEE	5 MEMBERS OF THE AUTHORITY  1 PARISH COUNCILLOR MEMBER  3 INDEPENDENT MEMBERS	All matters set out in paragraph 8.03 of Article 8 of this Constitution including the management of the budget in respect of these functions.
<b>Onward Delegations</b>	<b>Responsible Officers</b>	<b>Functions</b>
Any decision which an officer takes under delegated powers must:-  a) Implement a policy or decision previously approved or taken by this Committee;  b) Facilitate or be conducive or incidental to the implementation of a policy or decision previously taken by this Committee;	Chief Executive  Corporate Director (Internal Services)  Corporate Director (External Services)  and all Heads of Service	To do all things necessary for the proper management and administration of the Council's services and functions as set out in and subject to the Scheme of Delegation to Officers contained within this Part of the Constitution and approved annually by Full Council.

<p>This delegation does not include the authority to confirm any order or issue any permission, consent, licence or similar determination that is the subject of a statutory right of appeal that has been duly exercised or a substantive objection that has been raised.</p>		
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## **SCHEME OF DELEGATIONS TO OFFICERS**

### **General Principles**

This scheme delegates the powers and duties of the Council to Officers within broad functional descriptions based on the management structure set out in Part 7 of the Constitution and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation including authorising the affixing of the Common Seal.

This scheme operates under the provisions of the Local Government Act 1972 and all other powers enabling the Council.

In each case the delegated authority includes management of the human and material resources made available for the functions and services within the limitations of this scheme and subject to specific delegations in this scheme or elsewhere to another officer.

In this scheme "Officer" means the holder of any post named in this scheme as having delegated powers and duties.

### **Limitations on the exercise of delegated powers**

#### **General Limitations**

This scheme does not delegate to Officers:

- (a) any matter reserved to Full Council;
- (b) any matter which by law may not be delegated to an Officer;
- (c) any matter expressly reserved to a Committee within this Constitution or withdrawn from delegation by this scheme or by a Committee or the Council;
- (d) authority to determine policy and budgets.

#### **Council Policy**

Any exercise of delegated powers shall be subject to policies approved by the Council from time to time including Employment Policies and Disciplinary Policies, relevant Codes of Conduct and the Corporate Policy Framework.

#### **Budget**

In exercising delegated powers, Officers shall not go beyond the provision in the revenue or capital budgets except as permitted by Financial Regulation and Procurement Policy.

### **Scrutiny and Call-in**

In exercising delegated powers, Officers shall advise the Chairman of the relevant Policy Committee and the affected Ward Member/s of any decision to be taken that is:-

- (1) outside the ordinary duties of the service and
- (2) has a significant effect on one or more Wards in the District in terms of service or quality of life in the area.

Any proposal to take a decision in these circumstances may be called in, subject to the provisions for urgent action, by the Chairman of the relevant Policy Committee who will normally acquiesce to such a request from Ward Members. The matter will then be put to that Committee for decision at its next meeting.

### **Onward Delegation**

This scheme includes the power for Officers to delegate in writing all or any of their delegated functions to other Officers (described by name of post) either fully or under the general supervision and control of the delegating Officer.

Sub-delegations will be publicly available documents and may be reviewed by the relevant Policy Committee or scrutinised by the **Review Committee** at any time.

Any Officer exercising powers or duties in pursuance of full sub-delegation will be politically restricted under Section 2(1)(g) of the Local Government and Housing Act 1989.

### **To the Chief Executive**

To be Head of Paid Service and determine and issue general guidelines to Officers with regard to recruitment, training, conditions of service, national and local pay awards, rewards, health and safety, employment relations, discipline and dismissals.

To be the responsible officer for and take decisions and exercise discretion on the management of **Human Resources** and matters of Civic and Public Relations, Corporate Policy, Health and Safety, Emergency Planning and Staffing issues.

To be Returning Officer for District and Parish Council elections in the District of Rochford, retaining the right to appoint others to discharge any or all of the functions of Returning Officer.

To be Electoral Registration Officer for the Council with authority to bring proceedings and to defend actions under the Representation of the People Act 1983 and any associated regulations.

To be Emergency Controller for the District of Rochford.

With the agreement of the Leader of the Council and appropriate Committee Chairman and Chief Officers (or in their absence Vice-Chairman or deputy) to take any action that cannot reasonably be delayed until the next available Council, Committee or Sub-Committee meeting, subject to a report on such action being made to the next practicable meeting of the appropriate Committee.

**To the Corporate Director (Internal Services)**

To be Monitoring Officer pursuant to the Local Government Act 2000.

To be Proper Officer for all statutory purposes and Standing Orders except where a specific appointment has been delegated to another Officer.

To be the Solicitor to the Council.

To be the Responsible Officer for and take decisions and exercise discretion on matters of Corporate Property and all Corporate Management issues affecting the Council's internal services.

To authorise the institution, defence, withdrawal or compromise of any claims or legal proceedings, civil or criminal, including the making of appeals.

To give necessary legal authorisation to Officers of the Council, including authorisation to appear before the Magistrates' Courts, to serve notices to ascertain interests in land and to enter upon land in connection with the discharge of any of the functions of the Council.

To authenticate documents on behalf of the Council.

To be the Corporate Property Officer.

**To the Corporate Director (External Services)**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Contracted Services and all Corporate Management issues affecting the Council's External Services.

**To the Head of Legal Services**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Legal Services.

**To the Head of Administrative & Member Services**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Administrative & Member Services.

To be Data Protection Co-ordinator for the purposes of the Data Protection Act 1984 (as amended).

### **To the Head of Housing, Health & Community Care**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Housing, Health & Community Care Services, including the determination and issue of licences for all applications under the Licensing Act 2003 and Gambling Act 2005, for which valid representations have not been made and to determine whether representations are vexatious, frivolous or repetitious.

### **To the Head of Finance. Audit & Performance Management**

To exercise the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government and Finance Act 1988.

To be the Proper Officer under Section 115 of the Local Government Act 1972.

To have responsibility for accounting records and control systems, the form of the Statement of Accounts, its preparation, audit and inspection in accordance with the provisions of the Accounts and Audit Regulations 2003.

To update financial limits within the Financial Procedures Rules from time to time broadly in line with inflation.

To be the Responsible Officer for and take decisions and exercise discretion on matters within Finance, Audit and Performance Management Services.

### **To the Head of Revenue & Housing Management**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Revenue and Housing Management Services.

### **To the Head of Planning Services**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Planning Services except for the determination of planning applications when the following categories only will be determined under delegation:-

- i. Applications determined in accordance with the Weekly List procedure.
- ii. Private garages within curtilage of established residential properties.
- iii. New or altered means of access to existing developments subject to the necessary consultations with the Highway Authority.

- iv. Shop fronts relating only to shopping uses outside and not affecting designated Conservation Areas.
- v. Fences, boundary walls and other means of enclosure to residential properties.
- vi. The approval of reserved matters relating to landscaping and external materials.
- vii. Minor amendments to approved plans not determined by the Planning Services Committee.
- viii. The temporary siting of caravans where an approved building is in the course of construction.
- ix. All extensions to residential buildings.
- x. Refusal because of Metropolitan Green Belt policy.
- xi. Changes of use in accordance with an appropriate formal planning policy or plan.
- xii. Applications for changes of use of land to private residential gardens.
- xiii. Advertisements outside Conservation Areas and/or which do not affect the character or setting of Listed Buildings.
- xiv. Listed Building Consent where a concurrent planning application is within the existing delegation scheme.
- xv. Listed Building Consents where the building work involved does not require planning permission.
- xvi. Applications under the prior notification procedures in Part 6 (agricultural development), Part 7 (forestry development) and Part 24 (telecommunications development) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995.
- xvii. Applications under the prior notification procedures in Part 31 (Demolition of Buildings) of Schedule 2 to the Town & Country Planning (General Permitted Development) Order 1995.
- xviii. Response to consultations on County Matter applications in consultation with the Chairman of the Planning Services Committee and the Ward Members.
- xix. Response to consultations on Deemed County Council consent applications.

- xx. Response to consultations from neighbouring authorities unless the proposed development would have a major environmental impact on the district.

Exceptionally, where a delegated application raises controversial issues or significant community concern, the Head of Planning and Transportation shall advise the Chairman of the Development Control Committee who may require that the application be reported to that Committee for determination.