

## **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

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[NOTE: The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive, which may (but need not) be the responsibility of the Executive (the 'local choice functions'), and which are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive. The Executive arrangements contained in this Constitution make it clear how these distinctions are given effect.

'Local choice functions' are allocated so that it is clear whether:

- (a) they are the responsibility of the Council and/or its committees; or
- (b) they are the responsibility of the Executive Board; or
- (c) they are, or are not, the responsibility of the Executive Board to a specified extent.

This requirement is included in Article 4 (The full Council) and Article 7 (The Executive Board).

The respective responsibilities are set out in this Part as follows:-

Part A	Council Functions
Part B	Executive Functions
Part C	Local Choice Functions
Part D	Scheme of Delegation to Officers

### **PART A**

#### **POWERS EXERCISABLE DIRECTLY BY FULL COUNCIL**

##### **1. Matters to be considered by the Council on a recommendation from the Executive Board**

The determination of the Council's Budget or Policy Framework and the approval, amendment or modification of any plan or strategy forming part of the Council's Budget or Policy Framework (Article 4.01 refers).

Subject to the urgency procedure contained in the Access to Information Procedure Rules, any matter which the Executive Board is minded to determine in a manner which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget.

##### **2. Other functions (council) exercisable directly by full Council**

- a) Those functions set out at Article 4.02.

- b) To make, alter or revoke Procedure Rules (save as provided in Article 15.03).
- c) Consideration of reports of:-
  - (i) The Head of Paid Service under Section 4 of the Local Government and Housing Act 1989.
  - (ii) The Chief Finance (Section 151) Officer under Section 114 of the Local Government Finance Act 1988.
  - (iii) The Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.
- d) To approve and amend the Codes of Conduct (on recommendation of the Standards Committee).
- e) Duty to approve the Authority's statement of accounts, income and balance sheet.
- f) The making of Designation Orders in accordance with the provisions of Section 13 of the Police and Criminal Justice Act 2001 and the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 (on recommendation of the Regulation Committee).
- g) To adopt and amend the Council's Statement of Licensing Policy under Section 5 of the Licensing Act 2003 (on recommendation of the Licensing Committee).
- h) Contracting out of non-Executive functions under Section 70 of the Deregulation and Contracting Out Act 1994.
- i) Appointment of:-
  - proper officers under Section 270(3) of the Local Government Act 1972;
  - an officer as the Council's Head of Paid Service under Section 4(1) of the Local Government and Housing Act 1989;
  - an officer as the Chief Finance Officer under Section 151 of the Local Government Act 1972;
  - an officer as the Monitoring Officer under Section 5(1) of the Local Government and Housing Act 1989.
- j) All other functions which are:-
  - not the responsibility of the Executive and have not been delegated by the Council;
  - local choice functions which the Council decides should be undertaken by itself;
  - required by law to be reserved to full Council.

### **3. Matters reserved to Committees**

COMMITTEE	MEMBERSHIP	FUNCTION
<b>Area Committees</b>		
West Area Committee	16 Members Of The Authority	<p>(a) In respect of their local area and subject to Council Policy to;</p> <ul style="list-style-type: none"> <li>identify the needs of the Community through consultation and the involvement of the community and other appropriate bodies including the Environment, Community Health and Social Care, Crime and Disorder, Street Scene, Recreation, Leisure and Tourism and Local Highways matters that affect it, advising the Executive Board as appropriate on such issues.</li> <li>seek agreement from the Executive Board for changes to services to meet local needs that are outside the immediate responsibility and/or budget of the Area Committee in respect of, for example: <ul style="list-style-type: none"> <li>Refuse collection,</li> <li>Street cleaning,</li> <li>Environmental maintenance</li> <li>Grounds maintenance,</li> <li>Local parks and playing fields,</li> <li>Children's play areas,</li> </ul> including seeking agreement for revenue and capital expenditure to meet any changes</li> <li>monitor of local service delivery, consideration of the outcome of such monitoring and advising the Executive Board and the Review Committee as appropriate</li> <li>make arrangements for the provision of information about</li> </ul>
Central Area Committee	14 Members Of The Authority	
East Area Committee	9 Members Of The Authority	

		<p>local services and other information to people in the area.</p> <ul style="list-style-type: none"> <li>• act as a Community Forum where the Area Committee and members of the community can discuss issues of concern to them, such issues to include matters that are the direct responsibility of the Council and other issues that are the responsibility of other organisations</li> <li>• exercise delegated authority with regard to Council functions in respect of power to create, stop up and divert footpaths and bridleways, designate cycle tracks and any other Council functions as may be delegated to it by Full Council</li> <li>• exercise delegated authority with regard to Local Choice functions as outlined in Part C of this document</li> <li>• exercise any executive functions as may be delegated to it by the Executive Board</li> </ul>
<b>Regulatory and Probity Committees</b>		
Development Control Committee	39 Members Of The Authority	Those functions in relation to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)
Appeals	6 Members Of The	Those functions in relation to

Committee	Authority	appeals, licensing and registration as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) other than those that fall within the remit of the Licensing Committee.
Licensing Committee	15 Members Of The Authority	Those functions under the Licensing Act 2003, the Gambling Act 2005 and all associated or amending legislation.
Audit Committee	11 Members Of The Authority	Those 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>
Standards Committee	5 Members Of The Authority  2 Parish Councillor Members  3 Independent Members	All matters set out in paragraph 9.03 of Article 9 of this Constitution
<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 the Executive Board or a Committee; b) Facilitate or be conducive or incidental to the implementation of a policy or decision	Chief Executive, Corporate Director (Internal Services), Corporate Director (External Services), Head of Legal Services, Head of Information & Customer Services Head of Finance, Audit & Performance Management Head of Planning & Transportation Head of Environmental	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 Part D of this Part of the Constitution and approved annually by Full Council.

<p>previously taken by the Executive Board or a Committee;</p> <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>	<p>Services Head of Community Services</p>	
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## PART B

### EXECUTIVE BOARD FUNCTIONS

To make recommendations to the Council in relation to the functions contained in Part A of this document.

Subject to those matters reserved to the Council in Part A of this document, the Review Committee functions and with the exception of those Council (non-Executive) powers specifically delegated to other Forums set out in Parts A and C of this document, the Executive has full power to act in respect of every other function.

To refer at its discretion, any issue to the Review Committee for detailed consideration and report.

To consider the recommendations of the Review Committee either arising from an issue referred to it under 3 above, or where the latter Committee has “called-in” a decision of the Executive for review

#### Executive functions delegated to an individual member or committee

Individual Member of Executive Board	Function	Limits and Qualification
Leader of Council (or Deputy in his/her absence)	Taking a special urgency decision in accordance with the Access to Information Procedure Rules	Agreement of Chairman of Review Committee required (or, in his/her absence, the Chairman of Council or in his/her absence, the Vice-Chairman of the Council
Leader of Council (or Deputy in his/her absence)	Taking an urgent decision contrary to the Policy Framework or Budget in accordance with the Budget and Policy Framework Procedure Rules	Only if not practicable to convene a quorate meeting of full Council and written consent is received from the Chairman of the Review Committee that the decision may be regarded as urgent (in the absence of the Review Committee Chairman, the Chairman of the Council (or in his/her absence, the Vice-Chairman of the Council) should be consulted)



**PART C****LOCAL CHOICE FUNCTIONS**

Function	Decision Making Body	Delegation of Functions
The determination of an appeal against any decision made by or on behalf of the Council	Appeals Committee	Chief Executive
The conducting of Best Value Reviews in accordance with the provisions of any order for the time being having effect under Section 5 (Best Value Reviews) of the Local Government Act 1999	Review Committee	None
Any function relating to contaminated land	The relevant Area Committee	Head of Environmental Services
The discharge of any function relating to the control of pollution or the management of air quality	The relevant Area Committee	Head of Environmental Services
The service of an abatement notice in respect of a statutory nuisance	The relevant Area Committee	Head of Environmental Services
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Executive Board	None
The inspection of the authority's area to detect any statutory nuisance	The relevant Area Committee	Head of Environmental Services
The investigation of any complaint as to the	The relevant Area Committee	Head of Environmental Services and/or

existence of a statutory nuisance		Head of Legal Services
The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land	Executive Board	Head of Planning & Transportation and/or Head of Legal Services
The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Executive Board	Head of Legal Services
The appointment of any individual: -To any office other than an office in which he is employed by the Authority -To any body other than: (ii) A joint committee of two or more authorities or (ii) To any Committee or Sub-Committee of such a body and the revocation of any such appointment	Executive Board	Chief Executive and Head of Paid Service
Making agreements with other local authorities for the placing of staff at the disposal of those other authorities	Executive Board	Chief Executive

## **PART D**

### **SCHEME OF DELEGATIONS TO OFFICERS OF COUNCIL AND EXECUTIVE FUNCTIONS**

#### **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 or;
- (b) any matter which by law may not be delegated to an Officer;
- (c) any matter expressly reserved to the Executive Board or a Committee within this Constitution or withdrawn from delegation by this scheme or by the Executive Board, 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 Executive Board or the relevant Area 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 Executive Board or relevant Area Committee who will normally acquiesce to such a request from Ward Members. The matter will then be put to the Executive Board or the appropriate Area 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 Executive Board 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 and 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, Executive Board, Committee or Sub-Committee meeting, subject to a report on such action being made to the next practicable meeting of the appropriate body.

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

To be the Responsible Officer for and take decisions and exercise discretion on 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 Information and Customer Services**

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

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

### **To the Head of Environmental Services**

To determine and issue licences and permits for all applications under the Licensing Act 2003 for which valid representations have not been made and to determine whether representations are relevant within the meaning given by section 18(6) of the Act

To determine and issue licences and permits for all applications under the Gambling Act 2005 for which valid representations have not been made, or have been made and withdrawn, or have been made and all parties agree that a hearing is unnecessary, but excluding:

- a) any application for a premises licence involving the removal or variation of any of the default conditions prescribed by regulations made under section 168 of the Act, or
- b) any application for a gaming machine permit in respect of which the Authority consider refusing the application or of granting the application for a lesser number of machines than applied for, or
- c) where the Authority consider withdrawing the automatic entitlement for an alcohol-licensed premises to provide 2 gaming machines

To make representations in respect of premises licence applications and the making of applications for review of premises' licences under the Gambling Act 2005 and to determine whether:

- a) representations fall within those defined under section 162 (3) of the Act or
- b) an application for review of a premise licence should be rejected in accordance with section 198 of the Act.

To determine all applications for registration by a society to promote a small society lottery.

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

### **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 Community Services**

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

### **To the Head of Planning & Transportation**

To be the Responsible Officer for and take decisions and exercise discretion on matters within Planning and Transportation 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.

The Head of Planning and Transportation will also be the Responsible Officer for and take decisions and exercise discretion on matters relating to car parking operation and management, on street parking enforcement, local highway matters and other transportation issues which fall within the responsibilities of the District Council.