



Part 3: Introduction – The Principles of Delegation

1. One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Executive or Officer) makes the decision that will result in an action being taken or not taken.

2. The Hierarchy of Decision-Making

The Full Council

The Full Council will exercise the functions reserved by law to Full Council in Article 4 of this Constitution and those determined locally to be functions for Full Council as set out in Section B of this Part of the Constitution.

The Executive

The Executive will exercise the functions set out in Section C of this Part of the Constitution. The Executive is able to appoint Executive committees. Individual members of the Executive do not have decision-making responsibilities. However, the Leader shall allocate a portfolio of the Executive's areas of work to each Executive member so that the Executive member may:

- a. provide leadership on related issues within the Executive through portfolio expertise; and
- b. act as consultee in relation to a power delegated to an officer where such consultation is a requirement upon the officer exercising that function.

The responsibility for local choice functions

The responsibility for local choice functions will be exercised in accordance with Section A of this Part of the Constitution.

Committees

Committees will exercise the functions set out in Section B of this Part of the Constitution. Committees are able to appoint sub-committees and Scrutiny Panels are able to appoint sub-panels.

Officers

Officers will exercise delegated functions set out:

- a. in column 4 of the table in Section A of this Part of the Constitution (Responsibility for Local Choice Functions);
- b. in column 4 of the table in Section B of this Part of the Constitution (Committees and Sub-Committees – Regulatory Panels, etc);
- c. as specified in Section C of this Part of the Constitution (Executive Functions);
- d. under Section 1 of this Part of the Constitution (Principles); ***
- e. in the Scheme of Officer Delegation; and ***
- f. as provided for elsewhere in the Constitution.

3. If a function is delegated to the appropriate Chief Officer, the Head of Paid Service may nominate a substitute Chief Officer where this would, in the Head of Paid Service's opinion, be appropriate.

4. All references to "Chief Officer" means the Joint Chief Executive or Statutory Officer having primary responsibility for that function and area described in Article 12 of this Constitution. Such Officer will have all necessary power and authority to implement any such decision in relation to the functions on behalf of the decision-making body.

5. Limitations on and Parameters of Delegations

a. The exercise of a delegated power, duty or function shall be subject to:

i. the Council's Policy Framework and Budget; and

ii. the Council's Constitution (including, but not limited to, the Procedure Rules, Contract Procedure Rules, Financial Procedure Rules and Protocols) and any corporate standards or equivalent which might be set by the Council from time to time;

b. All delegated functions shall be deemed to be exercised on behalf of and/or in the name of the Council.

c. An officer to whom a power, duty or function is delegated may authorise another officer to exercise that power, duty or function, subject to the requirements that follow. Such authorisations shall be in writing and shall only be given to an officer over which the officer with the original delegated power, etc, has control. Such authorisations should only be given where there is significant administrative convenience in doing so. The officer authorised by the other should act in the name of the officer who received the original delegation. No authorisation may be given if the relevant statute or law prohibits it. Authorisations of this kind should not be considered to be norm but used only in appropriate circumstances and after careful thought. There can be no additional such delegation.

d. References to any enactment, regulation, order or byelaw shall be construed as including any re-enactment or re-making of the same, whether or not with amendments.

e. Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based, or from which powers, duties and functions of the Council are derived.

f. Where the exercise of powers is subject to prior consultation with a member or officer, that member or officer may give his or her views in general terms in advance to apply to any particular circumstances, to remove the need for consultation on each proposal.

g. Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.

h. All delegations are subject to:

i. the right of the delegating body to decide any matter in a particular case;

ii. the delegatee may in any case in lieu of exercising his/her delegated power refer to the delegating body for a decision; and

iii. any restrictions, conditions or directions of the delegating body.

i. In exercising delegated powers, the delegatee shall:

- i. take account of the requirements of the Constitution and any corporate standards and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
 - ii. shall exercise the delegation so as to promote the efficient, effective and economic running of the Council, and in furtherance of the Council's visions and values; and
 - iii. shall, where and when appropriate, report back to the appropriate delegating body as to the exercise of those delegated powers.
- j. Except where otherwise expressly provided either within this part of the Constitution or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place to take the action in the name of and/or on behalf of the Council.
- k. Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description elements relevant to any particular delegation which were also present in the earlier post, and shall include anyone acting up or seconded.
- l. Any reference to a Committee, Panel or Sub-Committee shall be deemed to include reference to a successor Committee, Panel or Sub-Committee provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee, Panel or Sub-Committee.
- m. The Head of Legal & Democratic Services shall have the power to amend the list of delegations to reflect re-organisations, changes in job titles and vacancies, where such changes result in re-distributing existing delegations and not the creation of new ones.
- n. Save in respect of any statutory roles that are not capable of delegation, any power conferred on a subordinate officer shall be exercisable by the Head of Service.
- o. Delegations to Heads of Service can also be exercised by their relevant Joint Chief Executive.
- p. Where a power or duty is delegated, and the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the delegatee in question has the power to determine whether or not those circumstances exist or those conditions have been fulfilled in the name of and with the authority of the Council.
- q. If a matter is delegated, but that delegation cannot be implemented, that should be reported to the delegating body.
- r. Functions, matters, powers, authorisations, delegations, duties and responsibilities, etc, within this Scheme shall be construed in a broad and inclusive fashion and shall include the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of anything specified.
- s. For the avoidance of doubt, where a power or duty delegated under this scheme includes at source a power to recover costs, fees or charges, the delegation shall include the power to take all necessary action to recover such costs, fees or charges by way of civil debt or otherwise and shall be without prejudice to any other power to charge or recover costs that the Council may have under legislation.

t. Non-Executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000 (as amended). Any function that is not therein specified must be assumed to be Executive. Any mis-categorisation of a delegation as being Executive, non-Executive or other shall not invalidate a delegation.

u. Advice on procedures and matters to be taken into account in exercising delegated powers may be sought from the Head of Legal & Democratic Services.