

## **POWERS AND DUTIES OF THE COUNCIL, THE CABINET AND COMMITTEES**

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### **THE COUNCIL**

- 1.1 The procedure for conducting the Council meeting is contained within Part 3.
- 1.2 The Council decides the overall objectives, major policies and financial strategies of the Council. It also considers recommendations from the Scrutiny Committees on issues of significance.
- 1.3 The Local Government Act 2000 and associated regulations divide local authority functions between those which:

- (a) cannot be the responsibility of an Authority's Cabinet;
- (b) may be the responsibility of an Authority's Cabinet (local choice); and
- (c) are to be the responsibility of an Authority's Cabinet.

The Act also provides that a limited number of functions must be discharged by the full Council.

- 1.4 Executive functions of the Cabinet may be discharged by the Cabinet or by a Committee or Sub-Committee of the Cabinet, Officers of the Authority and/or by the Cabinet of other authorities under Joint Arrangements.
- 1.5 Functions of the Council, not being those which must be discharged by the full Council, may be discharged by Committees, Sub-Committees and Officers of an Authority or by the Cabinet of another authority or Joint Committees formed with other authorities.
- 1.6 Delegations allocated to Officers have therefore to be expressed as being 'Executive Functions' or 'Non-Executive Functions'
- 1.7 Non-Executive functions are specified in Schedules 1 and 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and all consequential Amendment Regulations.
- 1.8 Any function that is not therefore specified is assumed to be an executive function.
- 1.9 The Scheme of Delegated Powers to Officers is approved as part of the Council's Constitution. Additional delegated powers are also granted by virtue of Contract Standing Orders and Financial regulations. Delegations in respect of Cabinet functions are made by the Leader who may amend or vary such delegations upon giving notice to the Monitoring Officer, the Chief Executive and the relevant officers.

## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

- 1.10 The table below sets out the Council's decisions on who will be responsible for functions where there is a choice whether these are functions of Council or Cabinet in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). These functions may also be delegated to officers as set out in the Scheme of Delegation to Officers.

Local Choice Function	Responsibility
Any function under a local Act.	Cabinet
The determination of an appeal against any decision made by or on behalf of the Authority.	Council
Any function relating to contaminated land.	Cabinet
The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet
The service of an abatement notice in respect of a statutory nuisance.	Cabinet
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Cabinet
The inspection of the Authority's area to detect any statutory nuisance.	Cabinet
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet
The making of agreements for the execution of highways works.	Cabinet
The appointment of any individual  (a) to any office other than an office in which he is employed by the Authority; (b) to anybody other than:- (i) the Authority; (ii) a joint committee of two or more authorities; or (c) to any Committee or Sub- Committee of such a body, and the revocation of any such appointment.	Council

## RESPONSIBILITIES OF THE COUNCIL

The Council is responsible for:

- 2.1 The adoption and changing of the Constitution except where such changes have been delegated to the Monitoring Officer.
- 2.2 The approval and amendment of the Council's major policy framework, and budget and the approval of any application to the Secretary of State in respect of any Housing Land Transfer.
- 2.3 The adopting of rules relating to meetings and proceedings, standing orders and any subsequent amendment of these documents.
- 2.4 The approval of arrangements for the discharge of Council functions by senior staff of the Council and for the authorisation of senior staff as necessary.
- 2.5 Any decision relating to the dissolution of the Council or relating to merging or joint working with another Local Authority.
- 2.6 Appointment of the:
  - a) Leader of the Council;
  - b) Chair of the Council;
  - c) Vice-Chair of the Council;
  - d) Chair (and Vice) of any other appointed Committees or relevant Sub-Committees.
- 2.7 Agreeing and/or amending the terms of reference for Council committees (but not executive committees which are matters for the Leader) deciding on their composition and making appointments to them.

(Note – any changes to membership of a Committee or Sub-Committee can be implemented by the Monitoring Officer following a request by the relevant Group Leader and notified to the next available Council meeting).
- 2.8 To deal with matters which are statutorily required to be dealt with by the Council under any of the following statutes or any amendments thereto:
  - i. The setting of Council Tax (Local Government Finance Act 1992);
  - ii. The determination of the Council's borrowing limits;
  - iii. The approval or adoption of a plan or strategy for the control of the local authority's borrowing or capital expenditure;
  - iv. The consideration of reports by the Head of Paid Service (Section 4 of the Local Government and Housing Act 1989) regarding proposals for the discharge of the Council's functions and staffing and management of the Council's staff;
  - v. The consideration of reports by the Monitoring Officer (Section 5 of the Local Government and Housing Act 1989) regarding any contravention, maladministration or injustice by the Council;

- vi. The consideration of reports by the Chief Finance Officer (Section 114 of the Local Government Finance Act 1988) regarding the making of a report in circumstances where it appears to them that the Council, a Committee of the Authority, a person holding any office or employment under the Authority or a joint Committee on which the Authority is represented has made or is about to make a decision which involves or would involve the Authority incurring expenditure which is unlawful or has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council, or is about to enter an item of account the entry of which is unlawful;
  - vii. The designation of land as a Litter Control Area (Environmental Protection Act 1990);
  - viii. The approval of schemes for local authority run lotteries;
  - ix. Final approval of the Council's 3 year licensing policy under the Licensing Act 2003, and the Gambling Act 2005 and any decisions under the Council's related policies;
  - x. Preparing and amending the annual Pay Policy Statement under Section 38 of the Localism Act 2011;
  - xi. The adoption of a Code of Conduct for elected and co-opted Members of the Council under Section 27 of the Localism Act 2011;
  - xii. The adoption of a Code of Conduct for staff.
- 2.9 Appointing representatives to outside bodies, including Joint Committees established with other Local Authorities, unless the power to appoint has been delegated by the Council.
- 2.10 The adoption of a scheme of allowances for Members under the Local Government and Housing Act 1989 and the Local Government Act 1972 and any subsequent amendment, variation revocation or re-enactment of such scheme.
- 2.11 To appoint or dismiss, in accordance with statutory procedures, the following staff:
- (a) The Chief Executive (the Head of the Council's Paid Service).
  - (b) The Monitoring Officer.
  - (c) The Electoral Registration Officer.
  - (d) The Returning Officer for the purpose of conducting elections.
  - (e) The Chief Finance Officer (S151 Officer) (if not the Chief Executive or a Director).

- 2.12 To agree the Council's budget.
- 2.13 To fix Council house rents and other service charges.
- 2.14 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills.
- 2.15 The exercise of functions relating to changing the name of the area.
- 2.16 Considering reports which any Committee refers to it in accordance with this Constitution.
- 2.17 Requesting the Scrutiny Committee to prepare a report on any particular issue.
- 2.18 Deciding issues where a decision of the Cabinet has been called in by Scrutiny Committee and the matter is to be decided by Council in accordance with the Rules of Procedure for Scrutiny Committees.
- 2.19 The authorisation of the making of an application:
  - (a) for the inclusion of a disposal in a disposals programme under subsection (5) of section 135 (programme for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993; or
  - (b) for consent to that disposal under section 32 (power to dispose of land held for the purposes of part II) or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985.
- 2.20 To determine any issues which in the opinion of the Chief Executive are of an exceptional nature and warrant consideration by the Council.
- 2.21 To consider alterations to electoral arrangements including:
  - (a) any proposed alterations to District boundaries or electoral areas.
  - (b) approval to the making of Orders altering the number of Parish Councillors for any Parish.
  - (c) the designation of polling places.
- 2.22 To debate Council wide issues including those included in Government White Papers.

- 2.23 To provide a Forum whereby members of the public can attend and ask questions or partners/stakeholders can discuss issues with the Council, e.g. annual state of the District debate.
- 2.24 To enable individual Councillors to pursue issues, ask questions and initiate policy.
- 2.25 The adoption of Financial Regulations and Procedures and any subsequent amendment, variation, revocation or re-enactment of these documents.
- 2.26 The exercise of functions in relation to the Local Government Pension Scheme.
- 2.27 The promotion of, or opposition to, Local Bills in Parliament.
- 2.28 All other matters which by law must be referred to Council.

### **RESPONSIBILITIES FOR CABINET FUNCTIONS**

- 3.1 Executive functions will be performed by the Cabinet. These functions may be grouped together in the form of Cabinet portfolios, the number and scope of which will be agreed by the Leader. The Leader will also allocate responsibility for the portfolios among the individual councilors appointed to the Cabinet, on an annual basis but is entitled to amend the portfolios at any time. Wherever possible Portfolios will be aligned across Babergh and Mid Suffolk, and with the structure of the Senior Leadership Team.
- 3.2 Any function which is not a Council function is an executive function and may be discharged by the Cabinet or by a Cabinet committee or by an officer to whom the Cabinet have delegated power as set out in the scheme of delegations.
- 3.3 The Cabinet shall carry out its business in accordance with the Cabinet Procedure Rules set on in Part 3 of the Constitution.