

## PART 3

### Responsibility for Functions

Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 some functions must be undertaken by the Council, some involve the Council and the executive (functions which may not be the sole responsibility of the executive) and some which may be the function of the Council or the executive as the Council may determine (local choice functions). The executive has sole responsibility for all functions other than those not to be the sole responsibility of the executive by virtue of legislation and those reserved to the council by legislation or (in relation to local choice functions) by the Council itself. Where a function requires the involvement of the Council, save for in a limited number of cases where legislation requires the function to be performed by the Full Council, the function may be delegated to a committee of the Council or an officer.

#### 1. Responsibility for local choice functions

Function	Decision-making body	Membership
The determination of an appeal against any decision made by or on behalf of the authority	Staff Appeals Committee	eight members of the executive or authority
Any function relating to contaminated land	The executive	
The discharge of any function relating to the control of pollution or the management of air quality	The executive	
The service of an abatement notice in respect of a statutory nuisance	The executive	
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 [ <i>power to require consent to the operation of loud speakers in the street</i> ] should apply in the authority's area	The Licensing Committee	11 members of the authority
The inspection of the authority's area to detect any statutory nuisance	The executive	

The investigation of any complaint as to the existence of a statutory nuisance	The executive	
The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land	The executive	
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The executive	
<p>The appointment of any individual</p> <p>(a) to any office other than an office in which he is employed by the authority;</p> <p>(b) to any body other than -</p> <p>(i) the authority;</p> <p>(ii) a joint committee of two or more authorities; or</p> <p>(c) to any committee or sub-committee of such a body, and the revocation of any such appointment</p>	The executive	
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities	The executive	
Functions under sections 106, 110, 111 and 113 of the 2007 Act relating to local area agreements	The executive	

2. **Responsibility for Council functions**

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>
<b>Development Control</b>	14 members of the authority	<p>Functions relating to town and country planning and development control as specified in paragraph A Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) save for power to acquire a listed building in need of repair and to serve a repairs notice under s.47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990</p> <p>Power to create footpaths, bridleways or restricted byways by agreement</p> <p>Power to make public path creation orders</p> <p>Power to make public path extinguishment orders and rail path extinguishment orders subject in each case to confirmation by the Secretary of State</p> <p>Power to divert footpaths bridleways and restricted byways</p> <p>Power to authorise the stopping up or diversion of a footpath, bridleway or restricted byway</p>

		<p>under s.257 Town and Country Planning Act 1990</p> <p>Power to extinguish public rights of way for planning purposes under s, 258 Town and Country Planning Act 1990</p> <p>Powers in relation to hedgerows under the Hedgerows Regulations 1997</p> <p>Powers relating to the preservation of trees under the Town and Country Planning Act 1990</p> <p>Powers relating to high hedges</p> <p>Powers in respect of common land and town and village greens under the Commons Act 2006</p>
<p>Licensing <i>and Environmental Health</i> Committee</p> <p><i>Some of the functions listed here currently fall under the Environment Committee. If we do not have an Environment Committee of the Council and do not allocate these functions to this committee then those functions must be retained by Full Council</i></p>	<p>11 members of the authority</p>	<p>Functions relating to licensing and registration in respect of the following matters:-</p> <ol style="list-style-type: none"> <li>1. animal boarding establishments, dangerous wild animals, dog breeding, performing animals, pet shops, riding establishments and zoos</li> <li>2. game and game dealers</li> <li>3. house to house and</li> </ol>

		<p>street collections</p> <p>4. hackney carriages, private hire vehicles, drivers and operators under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976</p> <p>5. pleasure boats under Public Health Acts Amendment Act 1907</p> <p>6. movable dwellings and camp sites under Public Health Act 1936</p> <p>7. caravan sites under Caravan Sites and Control of Development Act 1960</p> <p>8. scrap yards under the Scrap Metal Dealers Act 1964</p> <p>9. tables, chairs and other items on pedestrian areas of highways under the Highways Act 1980</p> <p>10. sex establishments under the Local Government (Miscellaneous Provisions) Act 1982</p> <p>11. street trading under the Local Government (Miscellaneous</p>
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		<p>Provisions) Act 1982</p> <p>12. acupuncture, tattooing, ear-piercing and electrolysis under the Local Government (Miscellaneous Provisions) Act 1982</p> <p>13. food premises under the Food Safety Act 1990</p> <p>14. operation of loudspeakers under the Noise and Statutory Nuisance Act 1993</p> <p>15. licensable activities under the Licensing Act 2003</p> <p>16. houses in multiple occupation under the Housing Act 2004</p> <p>17. the Gambling Act 2005 to include the power to set fees in accordance with regulations made there under</p> <p>Functions in relation to health, safety and welfare in connection with work and control of dangerous substances to the extent that the functions are discharged by the authority otherwise than in its capacity as an employer under Part 1 Health and Safety at</p>
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		<p>Work etc Act 1974</p> <p>Functions relating to smoke free premises</p> <p>Power to designate a public place for the purposes of police powers relating to alcohol consumption</p> <p>Power to make or revoke an alcohol disorder zone</p>
<p><b>ELECTIONS</b></p>	<p><i>Members may wish to establish a small committee to deal with some or all of these electoral matters. If members decide not to do so the functions set out here must be dealt with by Full Council</i></p>	<p><i>Power to dissolve small parish councils</i></p> <p><i>Power to make orders for grouping parishes, dissolving groups and separating parishes from groups</i></p> <p><i>The division of the constituency into polling districts</i></p> <p><i>Power to divide electoral divisions into polling districts at local government elections</i></p> <p><i>Powers in respect of holding elections</i></p> <p><i>Power to fill vacancies on parish councils in the event of insufficient nominations</i></p> <p><i>Declaration of vacancy in office in certain cases</i></p> <p><i>Giving notice of casual vacancies in office</i></p> <p><i>Duties relating to publicity under the Local Government and</i></p>

		<p><i>Public Involvement in Health Act 2007</i></p> <p><i>Duties relating to notice to the electoral commission</i></p> <p><i>Power to change the name of a parish</i></p> <p><i>All powers and duties exercisable in connection with community governance reviews and petitions</i></p>
<p><b>Full Council</b></p>		<p>Duty to appoint an electoral registration officer</p> <p>Power to assign officers in relation to the requisitions of the registration officer</p> <p>Duty to appoint a Returning Officer for local government elections</p> <p>Duty to provide assistance at European Parliamentary Elections</p> <p>Power to pay expenses properly incurred by electoral registration officers</p> <p>Power to make temporary appointments to parish councils</p> <p>Power to submit proposals to the Secretary of State for a pilot scheme for local elections</p> <p>Duty to consult on a</p>



		<p>change of scheme for elections</p> <p>Power to alter the years of ordinary elections of parish councillors</p> <p>Functions relating to the change of name of an electoral area</p> <p>Power to change the name of the district</p> <p>Power to confer the title of Honorary Alderman or to grant the freedom of the district</p> <p>Power to petition for a charter to confer borough status</p> <p>Power to make, amend, revoke, re-enact or enforce byelaws</p> <p>Power to promote or oppose local or personal bills</p> <p>Functions relating to local government pensions etc</p> <p>Power to make standing orders including standing orders as to contracts</p> <p>Power to appoint staff and to determine the terms and conditions upon which they hold office</p> <p>Duty make arrangements for the proper administration of financial affairs etc under s.151 Local</p>
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		<p>Government Act 1972</p> <p>Power to appoint “proper officers”</p> <p>Duties with regard to the appointment of a Head of Paid Service and Monitoring Officer</p> <p>Power to adopt a scheme permitting co-opted members of overview and scrutiny committees to vote under paragraphs 12 and 14 schedule 1 Local Government Act 2000</p> <p>Power to make payments or provide benefits in cases of maladministration</p>
Standards Committee	<p>4 members of the authority other than the leader, 3 independent persons (one of whom must be chairman) and 3 representatives of town and parish councils within the district</p>	<p>To promotion and maintain high standards of conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Code of Conduct</p> <p>To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under section 80 of the Local Government Act 2000</p> <p>To give assistance to members and co-opted members of the</p>

		<p>authority.</p> <p>To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</p> <p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government</p> <p>Act 2000</p> <p>Considering petitions when necessary under the Council's petitions scheme</p>
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**3. Functions which are not the sole responsibility of the executive**

The functions set out below are to be performed by the executive subject to the powers of the Council set out thereafter.

Preparation of a plan under the Children and Young Person's (England) Regulations 2005
Preparation of development plan documents under s.15 Planning and Compulsory Purchase Act 2004
Preparation of the licensing authority policy statement under the Gambling Act 2005
Alterations to the development plan under s.54 Town and Country Planning Act 1990 under transitional arrangements

Preparation of the sustainable communities strategy under s.4 Local Government Act 2000

The formulation or preparation of a plan or strategy for the control of the council's borrowing, investments or capital expenditure or for determining the council's minimum revenue provision

In the above cases the following powers are reserved to the council:-

- to instruct the executive to reconsider any draft plan or strategy submitted
- to amend any draft plan or strategy
- to approve for the purposes of public consultation under the Town and Country Planning (Development Plans) (England) Regulations 1999 draft proposals for the preparation of alterations to or the replacement of a development plan
- to approve any plan or strategy (whether or not in draft form) for submission to the Secretary of State or any Minister of the Crown for approval where such submission is required
- to approve a development plan document for the purpose of its submission to the Secretary of State for independent examination under s.20 Planning and Compulsory Purchase Act 2004
- to adopt (with or without modification) any of the above mentioned plans or strategies

Amending, modifying, revising, varying, withdrawing or revoking any plan or strategy referred to above shall be the responsibility of the executive only to the extent that it is required to give effect to the requirements of the Secretary of State or any Minister of the Crown in respect of a plan or strategy submitted for approval or is recommended by the person carrying out an independent examination of a development plan document or is authorised by the council when approving or adopting the plan or strategy.

The functions set out in the left hand column of the table below which but for this provision might be the responsibility of the executive shall not be the responsibility of the executive in the circumstances referred to in the right hand column of the table.

<p>1. Adoption of a plan or strategy (whether statutory or non-statutory) other than one of those referred to in the foregoing provisions of this paragraph</p>	<p>The Council has determined that the decision should be reserved to it</p>
<p>2. The determination of any matter in the discharge of a function which:-  2.1 is the responsibility of the</p>	<p>The person or body by whom the determination is to be made is minded to determine the matter</p>

<p>executive; and</p> <p>2.2 is concerned with the Council's budget, borrowing or capital expenditure</p>	<p>contrary to or not wholly in accordance with the Council's budget or the Council's plan or strategy for the time being approved and adopted in relation to the Council's borrowing or capital expenditure and the decision maker is not authorised by the executive arrangements, financial regulations, standing orders or other rules and procedures to make a determination in those terms.</p>
<p>3. The determination of any matter in the discharge of a function:</p> <p>3.1 which is the responsibility of the executive; and</p> <p>3.2 in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the Council</p>	<p>The person or body by whom the determination is to be made is minded to determine the matter contrary to the approved or adopted plan or strategy</p>

Paragraph 3 in the table above does not prevent the discharge of a function by the executive where the circumstances which render a decision necessary may reasonably be regarded as being urgent and the person or body making the decision has obtained from the Chairman of the Scrutiny Committee (or if there is none or he is unable to act from the Chairman of the Council or in his absence the Vice- Chairman of the council) a written statement that the determination needs to be made as a matter of urgency.

The functions set out in the left hand column of the table below are the function of the executive subject to the limitations set out in the right hand column.

<p>Making an application under:-</p> <p>s.135(5) Leasehold Reform Housing and Urban Development Act 1993</p> <p>s.32 or s.43 Housing Act 1985</p>	<p>Council authorisation to make an application is required</p>
<p>Making calculations (whether original or substitute) under ss. 32 – 37, 43 – 49, 52I &amp; J, 52T &amp; U Local Government Finance Act 1992</p>	<p>Only the preparation of estimates of amounts to be used for the purposes of the calculation and estimates of the calculations for submission to the Council for consideration, the reconsideration</p>

	of those estimates and amounts in accordance with the Council's requirements and the submission of revised estimates and amounts for the Council's consideration are functions of the executive.
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**4. Responsibility for executive functions**

Under the Local Government Act 2000 the Leader may discharge all functions of the executive or may arrange for them to be discharged by the executive, a committee of the executive, a member of the executive or by an officer. Such an arrangement does not preclude the Leader exercising the function personally. In accordance with Article 7 of the constitution this section will be amended as soon as possible after the Council has moved to executive arrangements to show which functions are being allocated to the executive, committees of the executive, members of the executive or officers. Thereafter this section will be updated as soon as is reasonably practicable after an alterations to those arrangements are made.