

Part 3 – Responsibility for Functions

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The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended *give effect to Section 13 of the Local Government Act 2000 by specifying those local authority functions which are:

- (a) non-executive ie cannot be undertaken by or be the responsibility of the Executive;
- (b) executive or non-executive by local choice ie those which the Council can choose to be the responsibility of the Executive if they so wish; and
- (c) those which are to some extent, the responsibility of the Executive.

All other functions given to a local authority but which are not specified in the Function Regulations are automatically deemed to be the responsibility of the Executive.

(* Amendments up to and including SI no. 2015/968 have been taken into account in this document)

1. Responsibility for Local Choice Functions

(Note:- The functions referred to in the fourth column are set out in the committee terms of reference, Executive Portfolios and/or delegations to officers as they appear in the Council's Constitution and as may be subsequently amended by the Council and its Executive or committees as appropriate)

Function	Decision Making Body	Membership	Delegation of Functions*
1. Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended	Council	All members of the Council	None

Function	Decision Making Body	Membership	Delegation of Functions*
<p>2. The determination of an appeal against any decision made by or on behalf of the authority</p>	<p>Executive Leader</p>		<p>Cabinet Member with portfolio responsibility</p>
	<p>The following bodies according to the functions delegated to them under their respective terms of reference:-</p> <p>Licensing Committee General Purposes and Arbitration Committee Education Statutory Appeals Panel</p>	<p>The membership of these bodies is set out in Section 2 Responsibility for Council Functions below.</p> <p>(They must not be members of the Executive)</p>	

Function	Decision Making Body	Membership	Delegation of Functions*
<p>3. The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools</p>	<p>The Council</p>	<p>All members of the Council</p>	<p>All functions delegated to the Education Statutory Appeals Panel</p>
<p>4. The making of arrangements pursuant to section 94(1), (1A) and (4) of the Schools Standards and Framework Act 1998 (admission appeals)</p>	<p>The Council</p>	<p>All members of the Council</p>	<p>All functions delegated to the Education Statutory Appeals Panel</p>
<p>5. The making of arrangements pursuant to section 95(2) of the Schools Standards and Framework Act 1998 (children to whom section 87 applies; appeals by governing bodies)</p>	<p>The Council</p>	<p>All members of the Council</p>	<p>All functions delegated to the Education Statutory Appeals Panel</p>

Function	Decision Making Body	Membership	Delegation of Functions*
6. Any function relating to contaminated land	The Executive Leader, except where the function involves any of the following actions which will be the responsibility of the Licensing Committee:-		Cabinet Member with portfolio responsibility
7. The discharge of any function relating to the control of pollution or the management of air quality	(a) determining an application from a person for a licence, approval, consent, permission or registration; (b) direct regulation of a person (with substantial discretion as to the regulatory action); (c) enforcement of any such licence approval, consent, permission or direct regulation	Licensing Committee:- 15 non-Executive members of the Council	Such functions relating to these matters which have been delegated to officers by the Council are set out in the Scheme of Delegations within the Constitution and as may be amended by the Council from time to time
8. The service of an abatement notice in respect of a statutory nuisance			

Function	Decision Making Body	Membership	Delegation of Functions*
<p>9. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area</p>	<p>The Executive Leader, except where the function involves any of the following actions which will be the responsibility of the Licensing Committee:-</p>		<p>Cabinet Member with portfolio responsibility</p>
<p>10. The inspection of an authority's area to detect any statutory nuisance</p>	<p>(a) determining an application from a person for a licence, approval, consent, permission or registration;</p>	<p>Licensing Committee:- 15 non-Executive members of the Council</p>	<p>Such functions relating to these matters which have been delegated to officers by the Council are set out in the Scheme of Delegation set within the Council's Constitution and as may be amended by the Council from time to time</p>
<p>11. The investigation of any complaint as to the existence of a statutory nuisance</p>	<p>(b) direct regulation of a person (with substantial discretion as to the regulatory action);</p> <p>(c) enforcement of any such licence approval, consent, permission or direct regulation</p>		

Function	Decision Making Body	Membership	Delegation of Functions*
<p>12. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land</p>	<p>The Council</p>	<p>All members of the Council</p>	<p>Planning Committee and to the Director - Governance</p>
<p>13. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976</p>	<p>The Council</p>	<p>All members of the Council</p>	<p>Director - Governance</p>
<p>14. The making of agreements for the execution of highways works</p>	<p>The Executive Leader</p>	<p>Cabinet Member with portfolio responsibility</p>	<p>Cabinet Member with portfolio responsibility</p> <p>Functions which have been delegated to officers by the Council are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Council from time to time</p>

Function	Decision Making Body	Membership	Delegation of Functions*
<p>15. 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 such appointment.</p>	<p>The Council except where the appointment is within the functions of the Executive Leader or has been delegated to an officer or a committee</p>	<p>All members of the Council or Executive Leader</p>	
<p>16. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities.</p>	<p>The Executive Leader</p>		<p>Cabinet Member with portfolio responsibility</p>

2. Responsibility for Council Functions

(Note: -

- (1) The “Functions Regulations” referred to in the table are the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended;
- (2) The terms of reference of committees referred to in the table are set out in the Council’s Constitution.)

Committee	Membership	Outline of Functions	Delegation of Function
Council	All members of the Council	The Council has reserved to itself certain strategic and policy functions, which are set out in Article 4 of the Constitution	
		Such functions specified in Schedule 1 to the Functions Regulations that are not delegated to any of the committees and panels listed in column 1 of this table	Functions which have been delegated to officers by the Council are set out in the Scheme of Delegation within the Council’s Constitution and as may be amended by the Executive Leader from time to time

Committee	Membership	Outline of Functions	Delegation of Function
<p>Planning Committee</p>	<p>16 members Geographic representation as far as possible within proportionality provisions</p>	<p>Such functions relating to town and country planning and development control terms of reference which are set out in the Council's Constitution and as may be amended by the Council from time to time.</p> <p>(The Committee will be responsible for any of the following functions specified in Schedule 1 to the Functions Regulations, as may be delegated to it in its terms of reference by the Council:-</p> <p>Town and country planning and development control functions (A1 – 31 inclusive)</p> <p>Miscellaneous functions (I1 – 34, 41, 42, 46, 47 and 47A) inclusive</p>	<p>Such functions relating to town and country planning and development control which have been delegated to officers by the Council are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Executive Leader from time to time</p>

Committee	Membership	Outline of Functions	Delegation of Function
Licensing Committee	15 members	<p>All matters relating to the discharge of the functions of the Licensing Authority under:</p> <p>the Licensing Act 2003 and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 5 of the 2003 Act (Statement of Licensing Policy) and any function discharged under Section 7 (5) (a) of the 2003 Act by a committee other than the Licensing Committee.;</p> <p>the Gambling Act 2005 and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 (casino resolution) and Section 349 (Statement of Principles) of the 2005 Act</p>	Such licensing functions which have been delegated to officers by the Licensing Committee are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Licensing Committee from time to time

Committee	Membership	Outline of Functions	Delegation of Function
Licensing Committee (continued)		The determination of fees as they relate to gambling as provided for by Section 212 of the 2005 Act and any regulations made under that Act, subject to consultation with the appropriate Cabinet Member on the budgetary implications.	
Licensing Sub Committee	3 Sub Committees of 3 members appointed by the Licensing Committee	To exercise the functions of the Licensing Committee under the Licensing Act 2003 and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 5 of the 2003 Act (Statement of Licensing Policy) and any function discharged under Section 7 (5) (a) of the 2003 Act by a committee other than the Licensing Committee, or any function specifically reserved to the Licensing Committee.	Such licensing functions which have been delegated to officers by the Licensing Committee are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Licensing Committee from time to time

Committee	Membership	Outline of Functions	Delegation of Function
Licensing Sub Committees (continued)		To exercise the functions of the Licensing Committee under the Gambling Act 2005 (referred to as “the 2005 Act”) and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 (casino resolution), Section 212 (fees) and Section 349 (Statement of Principles) of the 2005 Act, and any other function specifically reserved to the Licensing Committee.	Such licensing functions which have been delegated to officers by the Licensing Committee are set out in the Scheme of Delegation within the Council’s Constitution and as may be amended by the Licensing Committee from time to time
Licensing Committee	15 non-Executive members	Such functions relating to licensing and registration as are set out in the terms of reference as set out in the Council’s Constitution and as may be amended by the Council from time to time.	

Committee	Membership	Outline of Functions	Delegation of Function
Licensing Committee (cont)		<p>The following functions specified in Schedule 1 to the Functions Regulations, as may be delegated to it in its terms of reference by the Council:-</p> <p>Taxi, gaming, entertainment, food and other miscellaneous licensing and registration functions including regulation of the use of highways (B1 – 14 and 15 – 71 inclusive, but excluding 14A and 14B which are reserved to the Council and excluding 14AA – 14F and including 14G)</p> <p>Health and safety at work functions, other than those discharged in the authority's capacity as an employer (C)</p>	Such functions relating to licensing and registration which have been delegated to officers by the Council are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Executive Leader or Council from time to time

Committee	Membership	Outline of Functions	Delegation of Function
<p style="text-align: center;">General Purposes and Arbitration Committee</p>	<p style="text-align: center;">7 members</p>	<p>Such functions as are set out in the terms of reference within the Council's Constitution, and as may be amended by the Council from time to time relating to:-</p> <p>Elections (D1 – 22 not including D16) name & status of area or individuals (E) community governance (EB) byelaws (F) local or personal Bills (G) pensions etc. (H)</p> <p>Power to make payments or provide other benefits in cases of maladministration etc. (I48)</p>	<p>Functions which have been delegated to officers by the Council are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Executive Leader or the Council from time to time</p>

Committee	Membership	Outline of Functions	Delegation of Function
<p>General Purposes and Arbitration Committee (continued)</p>		<p>To deal with matters including appeals:</p> <ul style="list-style-type: none"> (a) submitted by staff and others relating to particular education issues and specific issues in Adult Social Care; (b) on private sector housing issues, including the repayment of house renovations grant money; (c) involving disputes from the Joint Consultative Panel; 'Failures to Agree' registered by Trades Unions; to deal with other employee relations matters through the exercise of functions as set out in the terms of reference set out in the Council's Constitution, and as may be amended by the Council from time to time. 	

Committee	Membership	Outline of Functions	Delegation of Function
Ethical Standards and Member Development Committee	8 members, including 3-5 independent persons	The promotion and maintenance of high standards of conduct by members and officers within the Council, through the exercise of such functions as are set out in the terms of reference which are set out in the Council's Constitution, and as may be amended by the Council from time to time	Sub-Committees carry out specific functions in relation to conducting determination hearings
Chief Officer Terms and Conditions Committee	7 members	The process of selection and appointment and the determination of matters relating to the pay and conditions of the Chief Executive and Chief Officers of the authority, through the exercise of such functions as are set out in the terms of reference set out in the Council's Constitution, and as may be amended by the Council from time to time	None

Committee	Membership	Outline of Functions	Delegation of Function
Chief Officer Appointments Sub-Committee	Leader plus two members selected by the Leader from amongst Cabinet Members and Chairs of Scrutiny Boards and Committees	The process of selection and appointment and the determination of matters relating to posts below the designation of Director, which are notionally identified as a deputy chief officer of the Council, through the exercise of such functions as are set out in the terms of reference set out in the Council's Constitution, and as may be amended by the Council from time to time	None
Safer Neighbourhoods and Active Communities Scrutiny Board	11 members	To exercise the functions of the Crime and Disorder Committee under the Police and Justice Act 2006 and any regulations made under that Act, through the exercise of such functions as are set out in the terms of reference which are set out in the Council's Constitution, and as may be amended by the Council from time to time	None

Committee	Membership	Outline of Functions	Delegation of Function
Audit and Risk Assurance Committee	7 Members plus 2 independent members	<p>To provide:-</p> <p>Independent assurance of the adequacy of the risk management framework and the associated control environment;</p> <p>Independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment.</p>	None

Committee	Membership	Outline of Functions	Delegation of Function
<p>Audit and Risk Assurance Committee (continued)</p>		<p>To oversee the financial reporting process, to be effected through the exercise of such functions as are set out in the terms of reference which are set out in the Council's Constitution, and as may be amended by the Council from time to time.</p> <p>The Committee will be responsible for any of the following functions specified in Schedule 1 to the Functions Regulations, as may be delegated to it in its terms of reference by the Council:-</p> <p>Duty to approve the authority's statement of accounts, income & expenditure, balance sheet and governance statement (145))</p>	

Committee	Membership	Outline of Functions	Delegation of Function
Land and Asset Management Committee	7 members	To consider and make recommendations to the Council on all matters relating to land and property assets valued at £500,000 and above to ensure the delivery of social and economic benefits and regeneration through land and property disposal; land and property acquisition; innovative land and property usage.	None

Committee	Membership	Outline of Functions	Delegation of Function
Education Statutory Appeals Panel	3 or 5 persons selected from a panel of people who meet the requirements specified under the Schools Standards and Framework Act 1998, but who are not members of the Council	To consider and determine appeals:- (a) by parents against a decision of the Local Education Authority not to admit a child to a school or to exclude a child from a school; (b) by Governing Bodies against a decision of the Local Education Authority to admit a child to whom section 87(2) of the Schools Standards and Framework Act 1998 applies	None
Health and Wellbeing Board	13 members [4 members of the Executive plus 3 Sandwell Directors, together with representatives of the local Commissioning Group, Healthwatch and the NHS Commissioning Board	The Board discharges functions set out in Section 195 of the Health and Social Care Act 2012 [duty to encourage integrated working of health and social care services] and Sections 116 and 116a of the Local Government and Public Involvement in Health Act 2007 [producing a joint strategic needs assessment across health and social care services]	None

3 Responsibility for Executive Functions

Responsibility and Membership	Functions	Onward Limits on Delegations
<p>The Cabinet which comprises:-</p> <p>Leader of the Council</p> <p>Deputy Leader of the Council and Cabinet Member for Strong and Resilient Communities</p> <p>Cabinet Member for Finance, Council Sustainability and Transformation</p> <p>Cabinet Member for Quality Homes and Thriving Neighbourhoods</p> <p>Cabinet Member for Living and Ageing Well</p> <p>Cabinet Member for Best Start in Life</p> <p>Cabinet Member for Governance and Democracy</p> <p>Cabinet Member for Strong and Inclusive Economic</p> <p>Cabinet Member for Connected and Accessible Sandwell</p>	<p>The functions for which individual Cabinet Members have received delegated authority from the Executive Leader are set out in their portfolios which are set out in the Council's Constitution, and as may be amended by the Executive Leader</p>	<p>Such functions relating to responsibilities of the Executive Leader which have been delegated to officers are set out in the Scheme of Delegation within the Council's Constitution and as may be amended by the Executive Leader.</p>