

ALLOCATION OF RESPONSIBILITY FOR FUNCTIONS: INTRODUCTION

1. Introduction
- 1.1 Part 3 of this Constitution deals with the allocation of responsibility for undertaking functions. The Council consists of a number of distinct parts, the key ones being the Executive (Leader and Cabinet) and the Council. Between them these two parts bear the primary responsibility for the function and powers of the Council. In order to operate effectively powers are delegated from the Executive and Council to Committees and officers.
- 1.2 The Council has adopted the “new-style” Leader and Cabinet executive (England) governance model from after its elections in May 2011. The Executive therefore consists of the Leader of the Council (who is appointed by full Council and may be removed by it) and 2 or more councilors appointed to the Cabinet from time to time by that Leader. The executive of Bromsgrove District Council is described as 'the Cabinet'.
- 1.3 In accordance with the law, any function of the Council which is not otherwise specified in legislation is an executive function and is the responsibility of the Leader and the Cabinet. The Leader may personally discharge functions which are the responsibility of the executive or arrange for their discharge by the Cabinet, another member of the Cabinet, a committee of the Cabinet or by an officer. The Leader may change these arrangements from time to time. Unless the Leader otherwise directs the Cabinet itself may arrange for the discharge of any of its functions by a committee of itself, a joint committee or by an officer.
- 1.4 The Leader has decided that all Executive functions will be carried out by the Cabinet collectively.
- 1.5 Parts 3 - 7 set out the way the functions and powers are distributed at Bromsgrove District Council. They are divided into a number of sections each of which deals with different elements of the distribution of functions and exercise of powers.
- 1.6 Parts 3 – 7 of the Constitution should be read in conjunction with the rest of the Constitution, in particular Part 2 Articles of the Constitution.
- 1.7 Parts 3 - 7 of this Constitution shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 (Functions which are the responsibility of an executive) and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

2. Functions

2.1 The Council's functions may be lawfully exercised by:-

- Full Council
- The Leader
- The Cabinet
- Cabinet Members
- Committees and sub-committees of the Council and Cabinet
- Joint Committees
- Officers of the Council
- Others persons so authorised where the law permits

3. Categories

The Councils function fall into four categories:-

1. those functions that are by law the responsibility of Full Council unless delegated (sole Council responsibility);
2. those functions that are by law partly the responsibility of Full Council and partly the responsibility of the Council's Executive (shared responsibility);
3. those functions where there is a local choice whether they are the responsibility of the Councils Executive (local choice functions);
4. all other functions, being by law the responsibility of the Council's Executive (default Executive functions).

Non - Executive functions include all those functions that are the responsibility of the Council under paragraphs 1, 2 and 3 above.

Executive functions include all those functions that are the responsibility of the Executive under paragraphs 2, 3 and 4 above.

4. Sole Responsibility of Full Council

- 4.1 Decisions about the Council's policy framework and budget, and other constitutional matters may only be taken by Full Council. A list of these matters is shown in Part 2 Article 4 of the Constitution. Article 4.1 lists the policies which make up the "policy framework"; Article 4.2 lists the functions which may only be exercised by Full Council. The exercise of these functions may not be delegated to a committee or officer.
- 4.2 In most cases Full Council is also responsible for the regulatory functions. Full Council has established regulatory committees such as Planning and Licensing to discharge these Full Council only functions.
- 4.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) gives effect to section 13 of the Local Government Act 2000 by specifying in Schedule 1 to the regulations which functions are not to be the responsibility of the Executive. In

other words the Executive cannot by law make the decision. For reference these functions fall under the following headings:-

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| A | Functions relating to town and country planning and development control |
| B | Functions relation to Licensing and Registration |
| C | Functions relating to health and safety at work |
| D | Functions relating to elections |
| E | Functions relating to name and status of areas and individuals |
| F | Power to make, amend, re-enact or enforce byelaws |
| G | Power to promote or oppose local or personal Bills |
| H | Functions relating to pensions |
| I | Miscellaneous functions |

5. Shared Responsibility

5.1 Some functions are partly the responsibility of the Full Council and partly the responsibility of the Executive. These are:

- (a) the budget and any plan or strategy for the control of the borrowing or capital expenditure (capital plan);
- (b) the policy framework, that is the plans and strategies which the Council approves and adopts.

5.2 The Executive will be responsible for preparing the draft budget, draft plans and strategies and proposing them to Full Council.

5.3 Full Council will be responsible for:-

- (a) adopting or approving the draft budget, plan or strategy:
- (b) asking the Executive to reconsider it: or
- (c) amending the budget, plan or strategy.

5.4 The Executive will be responsible for implementing the Councils policies and spending the budget in accordance with the Council's financial rules and regulations.

5.5 Some plans and strategies require ministerial approval after the Council has approved them. If the minister requires any amendments to those plans and/or strategies, the Executive will be responsible for making those arrangements.

6. Local Choice Functions

6.1 In some cases there is a local choice as to whether the function is to be the responsibility of the Council or the Executive and Table 1 sets out whether the function is to be the responsibility of the Council or the Executive.

7. Default Executive Functions

- 7.1 All other functions not so specified are to be the responsibility of the Executive.
- 7.2 If a decision is the responsibility of the Executive, Council cannot overrule the Executive or give instructions on how the decision should be made. However, in certain circumstances, Council can ask the Executive to reconsider decisions.