

PART 3 - RESPONSIBILITIES FOR FUNCTIONS

SECTION A

SCHEME FOR DELEGATION OF FUNCTIONS

1. INTRODUCTION

- 1.1 The Scheme for Delegation of Functions set out in this Part explains where responsibility for the various functions of the Council is located. It details what body is responsible for which functions in the Council. Elsewhere in this Part the Scheme of Officer Delegations details the extent to which, if at all, any functions have been delegated to officers or other bodies.
- 1.2 The functions which the authority is responsible for are either executive or non-executive. Non-executive functions are those specifically required by statute or designated by the Council to be non-executive functions. These will be exercised by either the full Council, committees appointed by the Council or officers. Executive functions are all those functions which are not non-executive functions and will be exercised by the Leader. The Leader may delegate any/all of the executive functions.
- 1.3 The Scheme for Delegation of Functions shall not extend to powers, duties or functions with respect to the levying of the Council Tax or issuing a rate or precept for a rate, or to the borrowing of money. Neither shall it extend to any powers, duties or functions for which the Council must retain responsibility.

2. TYPES OF FUNCTION

- 2.1 Functions fall into the following categories:

- a) Non-Executive Council Functions.

These are functions which, under the law, may not be the responsibility of the Leader. In some cases, such as adopting the Council's budget or the policy framework, only the full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an officer.

Council functions shall therefore comprise:

- i) those functions which are reserved as Council functions by the Local Government Act 2000 and by subsequent legislation;
- ii) those functions which are reserved as Council functions by Regulation 2 and Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and

subsequent regulations made under the Local Government Act 2000;

- iii) those functions set out in Regulation 3 and Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and subsequent regulations shown at Table 1 below as non-executive functions;
- iv) the adoption or approval of those plans and strategies which form the Policy Framework, being those plans and strategies set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 together with such plans and strategies as the Council shall identify from time to time for this purpose.

Article 4 (The Council) sets out the functions which the Council has decided shall only be carried out by the Full Council.

The Council has determined that certain Council functions shall be carried out by the committees as set out elsewhere in this Part of the Constitution in accordance with their terms of reference, which are set out further in Part 3 of the Constitution.

- b) 'Local Choice' Functions.

'Local Choice' functions are functions which may, by law, be exercised by the Leader or by the Council or a committee or officer of the Council, according to the decision of the Council. Table 2 below sets out the bodies authorised by the Council to undertake these 'local choice' functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

- c) Shared functions

Table 3 below sets out the bodies authorised by the Council to undertake those functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as functions which shall not be the sole responsibility of the Leader. The amendment or adoption of the plans and strategies identified in this Schedule shall be the responsibility of the bodies shown except where the amendment, modification, variation or revocations giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for his approval, or where it has been so authorised by the Council when approving or adopting the plan or strategy, when the responsibility shall be that of the Leader.

- d) Executive Functions.

All functions not otherwise identified in the legislation are executive functions. The Leader may delegate decision-making of his functions to

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive;
- (iv) an officer;
- (v) an area committee;
- (vi) joint arrangements;
- (vii) local Member in relation to their ward, or another local authority.

e) Proper Officer Functions.

The purpose of the Proper Officer provisions is to designate people to carry out certain statutory functions. These functions are set out in Part 3 of the Constitution.

f) Delegations to Officers.

The Council and the Leader may authorise designated officers to undertake on their behalf certain of their functions, including some of those listed in the Tables below. Details of these delegations are set out in the Scheme of Officer Delegations set out in Part 3 of the Constitution. A number of powers delegated to officers are also contained in Financial Regulations, as set out in Part 4 of the Constitution.

2.2 This Scheme includes the power for the Council and the Leader to delegate functions to officers or other local authorities.

2.3 Where any Acts or Regulations referred to in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are amended or repealed the Schedule will be deemed to have been changed to incorporate the appropriate new or amended Act or new or amended Regulation.

2.4 Article 4 (the Council), Article 6 (the Scrutiny Committees), Article 7 (the Leader, Deputy Leader and the Executive) and Article 8 (The Regulatory and Other Committees), as set out in Part 2 of the Constitution, identify the powers of the Council, its committees and the Leader. The terms of reference of these decision-makers are set out in Part 3 of the Constitution.

Table 1**Responsibility for non-executive functions**

(i.e. the functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which may not be undertaken by the Leader)

| Function | Decision making body |
|--|--|
| Functions relating to town and country planning, development control and building control insofar as they are the responsibility of the Council as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. | Planning Applications Committee (except where as provided for in Article 4.2(n).) |
| Except as otherwise provided in the Licensing Act 2003 and Gambling Act 2005, all functions of the licensing authority prescribed by those Acts. Functions relating to licensing and registration insofar as they are the responsibility of the Council, other than the licensing of films for public exhibition, as specified in Section B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. | Licensing Committee |
| Functions relating to health and safety at work insofar as they are specified in Section C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. | Licensing Committee |
| Functions relating to elections, name and status of areas and individuals and pensions and powers relating to byelaws and local and personal Bills insofar as they are the responsibility of the Council as specified in Sections D, E, F, G and H of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. | Council |
| Functions relating to public rights of way and other miscellaneous functions insofar as they are the responsibility of the Council as specified in Section I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. | Council (functions 23, 36 - 41, 43 - 45, 48) Licensing Committee (functions 22, 30, 31, 42) Planning Applications Committee (functions 32, 46, 47) |

Table 2**Responsibility for local choice functions**

(i.e. the functions identified in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 which the Council can choose how to allocate)

| Function | Decision making body |
|--|---------------------------------|
| Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1. | The Leader |
| The determination of an appeal against any decision made by or on behalf of the authority (other than staffing or licensing matters). | The Leader |
| Any function relating to contaminated land. <i>Part IIA of the Environmental Protection Act 1990</i> | Licensing Committee |
| The discharge of any function relating to the control of pollution or the management of air quality. <i>Pollution Prevention and Control Act 1999, Part IV of the Environment Act 1995, Part I of the Environmental Protection Act 1990, Clean Air Act 1993</i> | Licensing Committee |
| The service of an abatement notice in respect of a statutory nuisance. <i>Section 80(1) of the Environmental Protection Act 1990.</i> | Licensing Committee |
| The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area. <i>Section 8 of the Noise and Statutory Nuisance Act 1993</i> | Licensing Committee |
| The inspection of the authority's area to detect any statutory nuisance <i>Section 79 of the Environmental Protection Act 1990</i> | Licensing Committee |
| The investigation of any complaint as to the existence of a statutory nuisance <i>Section 79 of the Environmental Nuisance Act 1990</i> | Licensing Committee |
| The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land. | Planning Applications Committee |
| The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976. | The Leader |
| The making of agreements for the execution of highway works. | Council |

| Function | Decision making body |
|---|-----------------------------|
| <i>Section 278 of the Highways Act 1980</i> | |
| <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 (i) the authority or (ii) a joint committee of two or more authorities</p> <p>(c) to any committee or sub-committee of such a body and the revocation of any such appointment</p> | Council |
| The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities. | The Leader |

Table 3

Functions not to be the sole responsibility of the Leader

The functions identified in the table may be considered by the Leader and will be so considered where there are budgetary implications.

| Plan or Strategy | Responsibilities |
|---|------------------------------------|
| | |
| Sustainable Community Strategy <i>Section 4 of the Local Government Act 2000</i> | The Leader recommending to Council |
| Crime and Disorder Reduction Strategy (locally known as the Surrey Heath Community Safety Strategy) <i>Sections 5 and 6 of the Crime and Disorder Act 2000</i> | The Leader recommending to Council |
| Plans and alterations which together comprise the Development Plan <i>Section 54 of the Town and Country Planning Act 1990</i> | The Leader recommending to Council |