

# PART 4

## RESPONSIBILITY FOR FUNCTIONS

### General

**Table 1** Functions which cannot be exercised by the Executive

**Table 2** Functions where the Council has a choice of exercising them through either the Executive or the Council and the person or body to whom, if any, the function has been delegated

**Table 3** Functions not to be the sole responsibility of the Executive

**Table 4** The Membership and Terms of Reference of the Highways Committee of the Executive

**Table 5** Proper and Statutory Officer Provisions

**Table 6** List of functions that may only be exercised by Full Council

# RESPONSIBILITY FOR FUNCTIONS

## 1. General

- 1.1 The Authority's functions may lawfully be exercised by:-
- Full Council
  - The Executive
  - Individual members of the Executive (although for the time being individual members will not be exercising functions)
  - Committees and sub committees of the Council or the Executive
  - Joint committees
  - Officers
  - Other persons so authorised where the law permits
- 1.2 A description of the decision making structure and the management structure of the Council and the Service Areas within which various functions are generally dealt with is included in Part 1 of this Constitution.
- 1.3 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 give effect to section 13 of the Local Government Act 2000 by specifying which functions are not to be the responsibility of the Executive, which functions may (but need not) be the responsibility of the Executive ('Local Choice Functions') and which functions are to some extent the responsibility of the Executive. All other functions not so specified are to be the responsibility of the Executive. The Regulations were subsequently amended by the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001 and those amendments are reflected in this Constitution.
- 1.4 This Part of the Constitution and the Tables set out below describe whether the various functions of the Authority are 'Council functions' or 'Executive functions' and whether, in either case, those functions have been delegated to a committee, sub-committee, joint committee, officer or other person or body.
- 1.5 Table 1 sets out the functions, listed in Schedule 1 to the Regulations (as amended), which cannot be the responsibility of the Executive and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated. For instance, in the case of development control, all functions are delegated to the Director of Environment and Culture and/or the Head of Planning except those which are specified as being the responsibility of the Planning Committee.
- 1.6 Similarly, Table 2 sets out the Local Choice Functions which may or may not be the responsibility of the Executive and specifies which part of the Authority will be responsible for them. It also specifies to whom, if anyone, those functions have been delegated. For instance, functions under local Acts of Parliament are included here and so may lawfully be exercised either by the Council or the Executive. Table 2 specifies whether, in Brent, they will be exercised by the Executive or the Council.
- 1.7 Table 3 sets out the functions which are not to be the sole responsibility of the Executive. The Table describes the plans, policies and strategies, which form the Authority's Policy Framework and specifies what role the Executive will play in relation to those plans, policies and strategies. Essentially, the Executive will develop and consult on the plans, policies and strategies listed and will then refer

them to Full Council for consideration and approval. If approved, the Executive will then be responsible for implementing them.

- 1.8 Table 4 sets out the functions to be exercised by the Highways Committee which is a committee of the Executive.
- 1.9 Part 5 of the Constitution describes the membership and terms of reference for the Council committees and sub-committees. These are:-
- Standards Committee
  - Overview Committee
  - Health Overview Panel
  - Scrutiny Committee
  - Forward Plan Select Committee
  - Performance and Finance Select Committee
  - Children and Families Scrutiny Panel
  - Quality of Life Scrutiny Panel
  - Adult and Social Care Scrutiny Panel
  - General Purposes Committee
  - Pension Fund Sub-Committee
  - Senior Staff Appointments Sub-Committee
  - Staff Appeals Sub-Committees A and B
  - Schools Disciplinary Sub-Committee
  - Planning Committee
  - General Purposes Licensing Sub-Committee
  - Alcohol and Entertainment Licensing Committee
  - Alcohol and Entertainment Licensing Sub-Committees A, B and C
- 1.10 In addition to the powers described in the Tables as being specifically delegated to officers, any other Council and Executive functions are delegated to officers in accordance with paragraph 2, 'Powers Delegated to Officers'.
- 1.11 Table 5 sets out the 'proper officers' designated for the purposes of certain statutory provisions. Any reference in any Act or any part of this Constitution to 'the proper officer' will be a reference to the person so specified in the Table but if none is specified the Chief Executive or a person nominated by him or her for the purpose. Any other function not otherwise specified in the Tables or elsewhere in this Constitution is the responsibility of the Executive, unless specifically precluded by law from so being, in which case it shall be the responsibility of the General Purposes Committee (unless specifically reserved to Full Council in which case it shall be exercised by Full Council).
- 1.12 All functions shall be exercised in accordance with this Constitution including, for the avoidance of doubt, the Standing Orders and Financial Regulations and this Part 4 and Part 5.
- 1.13 In exercising any function or making any decision the decision making body or person shall take into account all relevant considerations and ignore all irrelevant considerations and shall comply with the Access to Information Rules.
- 1.14 A number of joint committees have been established with other London Boroughs under the umbrella of the Association of London Government. The Housing Committee exercises executive functions as does its Sub-Committee. The ALG Committee and the Transport and Environment Committee exercise executive and

non-executive functions. The terms of reference and make up of these committees and the sub-committee are described in Part 5.

**2. Powers Delegated to Officers**

- 2.1 Those officers named in the Tables or elsewhere in the Constitution have delegated to them the powers specified therein but subject to the limitations specified therein.
- 2.2 References in this Part 4 to a 'director' or 'relevant director' are references to one or more of the officers specified in paragraph 2.4 below.
- 2.3 The Chief Executive may exercise any of the powers delegated to officers save where expressly prevented by law from doing so. The Chief Executive also has delegated to him or her authority to exercise any of the Authority's functions (whether they are Council or Executive functions) in cases of extreme urgency provided that he or she is not precluded by law from doing so.
- 2.4 The Chief Executive, directors and other officers listed below shall have responsibility for the following general and related areas:-

(a) **Chief Executive:**

Head of Paid Service, overall corporate management and operational responsibility including overall management responsibility for officers, provision of professional advice to all parties in the decision making process.

(b) **Director of Children and Families:**

Statutory Director of Children's Services school improvement service. Outdoor education, pupil referral units, education tuition service, parent partnership service, exclusion teams, education welfare service, behaviour support, SEN assessment service, education psychology and learning support services, youth and connexions, Brent transport services, family support, teacher recruitment and assessment, education and children's finance, marketing and schools organisation, child protection, adoption, fostering and all functions of the Local Education Authority not reserved to members including but not limited to early years education and school places.

(c) **Director of Housing and Community Care:**

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All permanent and temporary housing, including temporary accommodation for asylum seekers, right to buy management, private sector housing services (including related environmental health functions), liaison and transactions with Housing Associations, homelessness and housing strategy, One Stop Shops/call centre service.

Statutory Director of Adult Social Services, health, adult physical disability, Brent Learning Disability Partnership, Brent Mental Health, services to older people, emergency duty team, corporate elders strategy, public health promotion, voluntary sector support service, adult and social care finance, home help, meals on wheels, welfare services, community care, and day centres and any other function listed in section 14 and Schedule 1 of the

Local Authority Social Services Act 1970 not delegated to the Director of Children and Families.

(d) **Director of Policy and Regeneration:**

Policy development, regeneration, complaints, liaison with the ombudsman.

(e) **Director of Environment and Culture:**

Environment, environmental health (other than in relation to private sector housing), highways, transportation, streetcare, refuse and street cleansing, parks, parking and open spaces, cemeteries and mortuaries, planning, licensing, street trading, trading standards, health & safety, contaminated land, accident prevention, waste management, street lighting, CCTV monitoring, pollution control, food safety, pest control, land charges, buildings control, street naming and numbering, registrar of births, deaths and marriages, Local Agenda 21 and leisure centres, adult and community education, arts, libraries, museums, and archives.

(f) **Director of Finance and Corporate Resources:**

Chief Finance Officer, administration of the payroll and pensions, management of the superannuation fund, financial investments, financial management, insurance and risk management, audit and investigations, corporate and strategic procurement, revenues and benefits, accountable body functions (once accountable body status has been formally conferred), IT, property and premises management.

(g) **Director of Human Resources and Diversity:**

Development of corporate HR and diversity policies, advice on HR and diversity policies and procedure, assistance with appointments and dismissals, handling appointments and dismissals where requested, consultation and negotiation with Trade Unions.

(h) **Director of Communications and Consultation:**

Media relations, internal and external communications, consultation with residents including Area Consultative Forums, design and corporate identity, filming in the Borough, translation and interpretation, member training and development.

(i) **Borough Solicitor:**

Chief legal officer; monitoring officer; sealing of deeds; issuing, defending, settling legal proceedings; entering contracts, agreements, deeds and other transactions; standards and probity; issuing notices and orders; certification of documents, electoral services, committee services, member services, legal services, qualified person for section 36 Freedom of Information Act 2000 determinations.

**Deleted:** (g) Director of Adult and Social Care: . ¶

**Deleted:** Statutory Director of Adults Social Care, health, adult physical disability, Brent Learning Disability Partnership, Brent Mental Health, services to older people, emergency duty team, corporate elders strategy, public health promotion, voluntary sector support service, adult and social care finance, home help, meals on wheels, welfare services, community care, and day centres and any other function listed in section 14 and Schedule 1 of the Local Authority Social Services Act 1970 not delegated to the Director of Children and Families.

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2.5 In addition to those powers specified in the Tables and elsewhere in this Constitution, the officers specified above have delegated to them by the Council or

the Executive (as the case may be) all and any of the powers of the Council and the Executive as may be necessary or desirable to enable them to effectively manage and operate their service area or unit or to carry out the roles and responsibilities required of them from time to time (not necessarily restricted to those roles and responsibilities specified above). These powers are subject to the exemptions, restrictions and limitations specified in paragraph 3 below or elsewhere in this Constitution. These powers include (but are not limited to) the powers set out in the following table which are also, subject to any exemption, restriction or limitation specified in respect of them in that table:-

Power	Exception, restriction or limitation
1. to exercise all functions that may from time to time fall within the scope of their professional and operational responsibility.	
2. to manage, within the approved cash limits, the budget allocated to the functions for which the officer has responsibility and to make virements or transfers as necessary.	<p>(a) no action may be taken which would result in growth, which cannot be contained in future years budgets or which would affect a budget which is not under the officer's direct control.</p> <p>(b) no virements or transfers may be made other than in accordance with the Scheme of Transfers and Virements agreed by Full Council.</p> <p>(c) <u>no internal trading arrangements shall be established without the approval of the Director of Finance and Corporate Resources<sup>1</sup>.</u></p>
3(a) to invite expressions of interest, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, agreements, deeds or other transactions; to purchase supplies and services; to appoint external consultants; to make minor or consequential changes to any of the documents mentioned above which were previously agreed by the Executive or the Council or their	<p>(a) <u>In the case of a contract, agreement, deed or transaction where the Council would be in receipt of works, services or supplies<sup>2</sup></u> if the value of the contract, agreement, deed, transaction, supply, service, <u>work</u> or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed £500k in respect of</p>

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<sup>1</sup> This change has been made to reflect a change to Financial Regulations requested by the Director of Finance and Corporate Resources.

<sup>2</sup> This amendment merely clarifies that these are the types of contracts that the limitation applies to. This reflects the current position.

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<p>committees or sub-committees.</p>	<p>services or supplies or £1million in respect of works, such value to be aggregated over the life of the contract (including any possible extension) then:-</p> <p>(i) no expressions of interest shall be invited without the prior approval of the Executive (or in the appropriate cases the General Purposes Committee);</p> <p>(ii) no contract, agreement, deed or transaction shall be awarded, entered into or terminated without the prior approval of the Executive (or in appropriate cases the General Purposes Committee); and</p> <p>(iii) shortlists may only be drawn up and tenders may only be evaluated in accordance with the basis of the evaluation criteria approved by the Executive (or in appropriate cases the General Purposes Committee) in accordance with Standing Orders 88(b) and 89(vi).</p> <p>(b) admission agreements in respect of the pension fund may only be agreed by the Director of Finance and Corporate Resources and in accordance with criteria adopted by the General Purposes Committee or the Pension Fund Sub-Committee.</p>
<p>3(b) to extend, vary, renegotiate, <u>novate or assign</u><sup>3</sup> contracts, agreements, deeds or other transactions.</p>	<p>(a) provided that the extension, variation, <u>renegotiation, novation or assignment</u> would not be in breach of the European Procurement Legislation.</p> <p>(b) provided that the extension, variation, <u>renegotiation, novation or assignment</u> does not substantially alter the terms and conditions of the contract.</p>

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<sup>3</sup> These amendments are clarification of the existing position

	<p>(c) provided that there is sufficient existing budgetary provision.</p> <p>(d) if the extension goes beyond the period of extension provided for in the contract (if any) or is otherwise not in accordance with the extension provisions in the contract:</p> <p>(i) in the case of any contract, agreement, deed or other transaction with a life of not more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of six months; or</p> <p>(ii) in the case of any contract, agreement, deed or other transaction with a life of more than one year (including any possible extension provided for in the contract) the extension shall not exceed a period of one year.</p> <p>(e) provided that in the case of any variation (other than an extension):</p> <p>(i) the total value of the variation is less than £500k; and</p> <p>(ii) if the total value of the variation is more than £50k it is not more than 20% of the original contract value (calculated over the life of the contract including any extensions or possible extensions and adjusted in accordance with any price review mechanism provided for in the contract).</p> <p><u>(f) provided that in the case of any novation or assignment that the relevant Director is satisfied that the contractor to which the</u></p>
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<sup>4</sup> This makes it clear that when a contract is novated or assigned to a new contractor then certain checks need to be undertaken on that new contractor. This reflects the advice that is given on these matters currently.

	<p><u>contract, agreement, deed or other transaction is to be novated or assigned meets the Council's requirements for financial standing, health and safety standards and technical expertise<sup>4</sup>.</u></p>
<p>4. to acquire and manage land and buildings and to grant easements, licences or leases for land and buildings required or used for the purposes of their service area or corporate unit.</p>	<p>(a) subject to the rules set out in paragraph 4 below.</p>
<p>5. to establish or re-organise the staffing structure of their service area or corporate unit and to appoint, discipline and dismiss staff.</p>	<p>(a) subject to the Standing Orders relating to staff.</p> <p>(b) <u>the Director of Finance and Corporate Resources shall be notified of any potential redundancy situation as soon as it becomes apparent and no notice of redundancy that will give rise to premature retirement compensation rights shall be issued without the prior written approval of the Director of Finance and Corporate Resources.<sup>5</sup></u></p> <p>(c) <u>the Director of Finance and Corporate Resources shall be notified of all proposals that a person be retired early on grounds of ill health as soon as the possibility of such retirement becomes apparent.</u></p> <p>(d) in the case of retirement other than on grounds of ill health, no person shall be offered premature retirement compensation except with the prior written approval of the Director of Finance and Corporate Resources.</p>
<p>6. on the approval of the Borough Solicitor to institute, defend or settle any actual or contemplated legal or formal proceedings on</p>	

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<sup>5</sup> These changes are requested by the Director of Finance and Corporate resources so that he is alerted in advance about all possible redundancy situations and early retirements so that the financial implications can be properly addressed at the earliest possible time.

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<p>behalf of the Council and to appear by counsel or in person or to authorise an officer to so appear in any proceedings and to verify a document by signing a Statement of Truth under the Civil Procedure Rules on behalf of the Council.</p>	
<p>7. to obtain any necessary consent, authority, registration, licence, certificate, deed, notice, order or other similar document that the Council may require.</p>	
<p>8. to register, issue, grant, or refuse permissions, consents, approvals, licences (not being occupational licences), notices, certificates, orders or similar documents which the Council is authorised or required to register, issue, grant, give, make or refuse by or under any enactment and to impose any conditions limitations or exceptions as they may consider appropriate.</p>	<p>(a) except where this is the responsibility of a committee or sub-committee. This exception does not apply to the making of minor or consequential changes to any permission, consent, approval, licence, notice, certificate, order or similar document which were previously authorised by the Executive or the Council or their committees or sub-committees or any conditions, limitations or exceptions imposed or to be imposed.</p>
<p>9. to exercise discretion in writing off or remitting in whole or in part debts due to the Council.</p>	<p>(a) all reasonable steps to recover the debt(s) have been taken.</p> <p>(b) no sums exceeding £1,000 shall be written off without the written approval of the Director of Finance and Corporate Resources.</p> <p>(c) all such debts written off shall be notified to the Director of Finance and Corporate Resources.</p> <p>(d) the Director of Finance and Corporate Resources has not required the matter to be referred to him or her for consideration.</p>
<p>10. to make grants or give other financial or other assistance to organisations.</p>	<p><u>(a) Provided that if the grant or other financial assistance involves the grant of funds from Council's own resources<sup>6</sup></u></p> <p><u>(i) the relevant Director is satisfied</u></p>

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<sup>6</sup> These amendments are clarification of the existing position

	<p>that no adverse capital finance or other negative implications would arise, unless written consent of the Director of Finance <u>and Corporate Resources</u> is obtained.</p> <p>(ii) no grant shall be made by officers if it amounts to more than £5k per annum.</p> <p>(iii) no grant shall be withdrawn or reduced by officers if the receiving body has received a grant from the Council for each of the last five years for the same purpose unless such withdrawal is due to the fact that the body no longer meets the relevant grant criteria or conditions of grant.</p> <p>(iv) the grant criteria has been approved by the Executive other appropriate body or person with appropriate authority.</p> <p>(v) no grant shall be made by officers from the council 'Main Programme Grant' or the 'Development Fund' except with the prior approval of the Executive.</p> <p><u>(b) Provided that where the grant or other financial assistance involves the distribution of funds received from a third party the grant or other financial assistance complies with the conditions under which the funds have been received by the Council.</u></p>
<p>11. to create and/or register legal charges in respect of debts owed to the Council.</p>	
<p>12. to act as a receiver.</p>	
<p>13. to authorise or nominate other officers to act on their behalf in exercising any of their functions.</p>	<p>(a) this may not be exercised other than by the officers listed in paragraph 2.4 above.</p> <p>(b) authorisations and nominations are subject to any limitations or provisos that the officers listed in paragraph 2.4 above may consider appropriate.</p>

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	(c) the names of the persons authorised or nominated shall be specified in a list maintained by the relevant officer listed in paragraph 2.4 above for that purpose and notified to the Borough Solicitor.
14. to appoint a person to be the statutory 'proper officer' for any functions falling within their designated area of responsibility and which are required to be undertaken by a proper officer. The designations specified in the Tables shall be deemed to have been amended accordingly.	(a) the name of the person appointed to a 'proper officer' position shall be specified in a list maintained by the appointing officer for that purpose and notified to the Borough Solicitor..
15. to take up posts on outside bodies or companies and appoint other staff to outside bodies or companies.	(a) only where it is related to their area of work. (b) the prior advice of the Borough Solicitor should be obtained.
16. to act as an authorised signatory for the Council.	
17. to hear or determine appeals on matters which are within their area of responsibility or any other area if requested to do so by the Chief Executive.	(a) provided they were not the person who made the decision, the subject of the appeal.
18. to carry out works for, or to provide services or supplies to, or to exercise functions on behalf of other local authorities or bodies.	(a) where permitted by law. (b) subject to compliance with Contract Standing Orders and Financial Regulations.
19. to determine whether any application received in relation to any matter is valid according to the rules or procedures governing such applications including for the avoidance of doubt, any application for planning permission or similar and to determine whether any other document report assessment (including an Environmental Impact Assessment) or other information is required to be provided or carried out prior to validation or determination of that application.	

<p>20. to determine any other minor issue, or make any minor modification or variation relating to a matter previously determined by the Executive or the Council or their committees or sub-committees e.g. minor amendments to conditions on planning permissions which Planning Committee have resolved to grant or minor amendments to terms and conditions of employment previously agreed by the General Purposes Committee.</p>	
<p>21. to respond to consultation papers from other bodies or local authorities.</p>	

2.6 The following officers have delegated to them the following additional powers in relation to all of the Council's services and areas of responsibility:-

(a) **Director of Finance and Corporate Resources**

Power to incur or prevent any expenditure, authorise borrowing within any limits approved by Full Council, issue instructions on any matter relating to budget preparation, budget monitoring or budget control, power to set and monitor accounting standards (including the use of accounting software), power to specify the format of returns, to require any officer to furnish him or her with any information and to answer any question relevant to the financial management of the authority

(b) **The Borough Solicitor:**

Power to institute, defend or settle any actual or contemplated legal or formal proceedings on behalf of the Council and to appear by counsel or in person or to authorise an officer to so appear in any proceedings and to verify a document by signing a Statement of Truth under the Civil Procedure Rules on behalf of the Council; power to sign contracts, deeds, orders, notices and all other documents, exercise the powers of the Monitoring Officer and the qualified person for Section 36 Freedom of Information Act 2000 determinations.

2.7 The Head of Property and Asset Management, who is responsible for management of the Council's municipal buildings portfolio and its property disposal programme; estates management and valuation; maintaining the Council's property (terrier) records; producing, updating and enforcing Corporate Property Standards; co-ordinating property management function across the Council; advice on property; delivering the annual Asset Management Plan has the delegated powers as described below in paragraph 4 below.

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**3. Exemptions, Restrictions and Limitations on Powers Delegated to Officers**

3.1 Chief Officers exercising delegated authority shall take all reasonable steps (including the taking of financial, legal and other similar advice) to ensure that no function is exercised or decision taken if, in their reasonable opinion:-

(a) **Policy:**

The exercise of that function or the making of that decision would or would be likely to conflict with or result in a change or departure from any decision or policy agreed by the Council or the Executive, other than the determination of planning applications where the departure from the development plan is determined in accordance with section 54A of the Town and Country Planning Act 1990.

(b) **Constitution:**

The exercise of that function or the making of that decision would or would be likely to conflict with the Constitution or any part of it.

(c) **Advice:**

The exercise of that function or the making of that decision would or would be likely to conflict with advice from the Chief Executive or the Director of Finance and Corporate Resources or District Auditor.

(d) **Ultra Vires:**

The exercise of that function or the making of that decision would or would be likely to result in unlawful or ultra vires activity or actions as advised by the Borough Solicitor.

(e) **Overspends:**

The exercise of that function or the making of that decision would or would be likely to result in spending of either a revenue or capital nature exceeding the approved revenue or capital budgets in either the current or any future year.

(f) **Decisions to be referred to the Executive or Council:**

It is a function which may under this Constitution be exercised by the Executive and the Executive or the Leader have requested that the matter be referred to them for decision; it is a Council function and the Full Council has agreed that the matter be referred to it or a committee or sub-committee for decision; or the relevant Director determines that the matter should be referred to the relevant part of the Executive or the Council for consideration.

(g) **Accountable body status and Partnership Arrangements:**

The exercise of that function or the making of that decision would confer accountable body status on the Authority or would result in a Partnership Arrangement with another body<sup>7</sup> unless the prior written approval of the Director of Finance and Corporate Resources has been obtained.

(h) **Company or partnership:**

<sup>7</sup> Partnership Arrangements are now defined in the Constitution and will be subject to the proposed new control mechanism described in Financial Regulations.

The exercise of that function would result in the setting up of a company or entering into a partnership arrangement with any other body.

(i) **Credit arrangement:**

The exercise of the function would or might involve borrowing or a hire arrangement or deferred payment scheme or lead to the creation of a credit arrangement unless the prior written approval of the Director of Finance and Corporate Resources has been obtained.

(j) **Personal interests:**

The officer concerned has a personal or private interest in the matter.

(k) **Redundancy:**

The exercise of that function or the making of that decision would or would be likely to result in transfers of staff to or from the Council of more than 20 people or redundancies of more than 20 people.

(l) **Significant or unusual risk:**

The exercise of that function or the making of that decision would or would be likely to expose the Council to a significant or unusual level of risk, financial or otherwise, as determined by the Chief Executive, the Director of Finance and Corporate Resources, the District Auditor or the Borough Solicitor.

(m) **Closure of a facility or reduction in services:**

The exercise of that function or the making of that decision would result or would be likely to result in the permanent closure of a facility used by the public or a permanent and significant reduction in the level of services or facilities provided to the public other than where such closure or reduction in service is considered necessary by the relevant director for reasons of health and safety.

(n) **Call In:**

The matter is called in for scrutiny in accordance with Standing Orders prior to being implemented.

(o) **Charges and Fees:**

The decision relates to the setting, levying or increase of any fees or charges to any member of the public in respect of a Council service (other than room lettings and copying charges).

(p) **Some other reason:**

The Chief Executive considers that the matter should not for some reason be considered by officers.

3.2 In cases where an officer is prevented from exercising any function delegated to him or her by virtue of any of the above or where he or she or the Chief Executive

decides that they cannot or should not exercise the function then that function shall be exercised by the person or body who would otherwise have responsibility for that function, or the General Purposes Committee if none other is specified (unless it is a matter which is reserved to Full Council).

**4. Acquiring, managing and disposing of land and buildings**

4.1 Directors may acquire and manage land and buildings and may grant easements, licences or leases of land and buildings provided that the land and buildings concerned are being used and will continue to be used for the purposes of their service area and provided that:-

- (a) the value of the interest in the land or building, as confirmed by the Head of Property and Asset Management or a person nominated by him or her, does not exceed £20k in rental value per annum or, if acquired or granted at a premium does not exceed £50k in value; and
- (b) the interest is an easement, a licence or a lease and is for a term which does not exceed seven years less 2 days.

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4.2 No freehold land or buildings shall be disposed of by a director.

4.3 The Head of Property and Asset Management may acquire any interest in land or buildings for, or in connection with, any of the Council's functions and may dispose of or grant easements, licences or leases in respect of any land or buildings, except where the value of the interest in the land or building, in his or her view, exceeds £20k in rental value per annum or, if acquired, disposed of<sup>8</sup> or granted at a premium, exceeds £50k in value.

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4.4. Neither the directors or the Head of Property and Asset Management may sell or grant any lease or easement, licence or otherwise dispose of any land or buildings unless the consideration received, as confirmed by the Head of Property and Asset Management, is the best that can reasonably be obtained, whether or not the grant, sale or disposal is covered by a general or specific consent from the relevant Secretary of State.

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4.5 Nothing in this paragraph 4 shall prevent the Director of Housing and Community Care from granting, in accordance with the Council's policies and procedures, any secure tenancy of housing accommodation nor from selling the leasehold or freehold interest in any residential property pursuant to the right to buy scheme or the voluntary sales scheme as promoted by the Secretary of State from time to time.

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4.6 In acquiring, selling or disposing of any land or buildings or granting any lease, licence or easement in respect thereof regard shall be had to any relevant Corporate Standards on property acquisitions, management and disposals.

4.7 No person shall create or grant a service tenancy or service occupancy without the prior written approval of the Chief Executive.

4.8 In any cases where officers do not have or may not exercise delegated powers in respect of land or buildings the matter shall be determined by the Executive (unless precluded by law or the Constitution from exercising that power in which

<sup>8</sup> This clarifies that this limitation is intended to apply to the disposal of freehold interests in land as well as leases and other interests.

case the matter will be determined by the General Purposes Committee where possible or the Full Council if not possible).

- 4.9 For the avoidance of doubt the rules in this paragraph 4 do not apply to the adoption of highways and footways if there is no legal transfer of title to land.

**5. Decisions by individual Members**

At the present time no members have authority to make any individual decisions.

**6. Decisions to be taken only by Full Council**

- 6.1 Legislation provides that some Council functions/decisions can only be exercised or made by the Full Council, that is all the members or a specified number or percentage of them meeting together.

- 6.2 Table 6 sets out a list of functions which may only by law be undertaken by Full Council.

**TABLE 1**

**FUNCTIONS WHICH CANNOT BE EXERCISED BY THE EXECUTIVE**

<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
<b>Function</b>	<b>Provision of Act or Statutory Instrument</b>	<b>Decision maker</b>
<b>A. Functions relating to town and country planning and development control</b>		<b>All of the functions listed under this section A will be exercised by the Director of Environment and Culture and/or the Head of Planning or by a person nominated or authorised by the Director of Environment and Culture, except those functions which are the responsibility of the Planning Committee or which are required to be determined by Full Council</b>
<b>1.</b> Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.	
<b>2.</b> Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.	
<b>3.</b> Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.	
<b>4.</b> Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.	
<b>5.</b> Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.	

<p><b>6.</b> Power to determine application for planning permission made by a local authority, alone or jointly with another person.</p>	<p>Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).</p>	
<p><b>7.</b> Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.</p>	<p>Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).</p>	
<p><b>8.</b> Power to enter into agreement regulating development or use of land.</p>	<p>Section 106 of the Town and Country Planning Act 1990.</p>	
<p><b>9.</b> Power to issue a certificate of existing or proposed lawful use or development.</p>	<p>Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.</p>	
<p><b>10.</b> Power to serve a completion notice.</p>	<p>Section 94(2) of the Town and Country Planning Act 1990.</p>	
<p><b>11.</b> Power to grant consent for the display of advertisements.</p>	<p>Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.</p>	
<p><b>12.</b> Power to authorise entry onto land.</p>	<p>Section 196A of the Town and Country Planning Act 1990.</p>	
<p><b>13.</b> Power to require the discontinuance of a use of land.</p>	<p>Section 102 of the Town and Country Planning Act 1990.</p>	
<p><b>14.</b> Power to serve a planning contravention notice, breach of condition notice or stop notice.</p>	<p>Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.</p>	
<p><b>15.</b> Power to issue an enforcement notice.</p>	<p>Section 172 of the Town and Country Planning Act 1990.</p>	

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<p><b>16.</b> Power to apply for an injunction restraining a breach of planning control.</p>	<p>Section 187B of the Town and Country Planning Act 1990.</p>	
<p><b>17.</b> Power to determine applications for hazardous substances consent, and related powers.</p>	<p>Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.</p>	
<p><b>18.</b> Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.</p>	<p>Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.</p>	<p>N/A</p>
<p><b>18A.</b> Power to issue a temporary stop notice</p>	<p>Section 171 E of the Town and Country Planning Act 1990</p>	
<p><b>19.</b> Power to require proper maintenance of land.</p>	<p>Section 215(1) of the Town and Country Planning Act 1990.</p>	
<p><b>20.</b> Power to determine application for listed building consent, and related powers.</p>	<p>Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>	
<p><b>21.</b> Power to determine applications for conservation area consent.</p>	<p>Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas Act 1990, as applied by section 74(3) of that Act.</p>	

<p><b>22.</b> Duties relating to applications for listed building consent and conservation area consent.</p>	<p>Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.</p>	
<p><b>23.</b> Power to serve a building preservation notice, and related powers.</p>	<p>Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>	
<p><b>24.</b> Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.</p>	<p>Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>	
<p><b>25.</b> Powers to acquire a listed building in need of repair and to serve a repairs notice.</p>	<p>Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>	
<p><b>26.</b> Power to apply for an injunction in relation to a listed building.</p>	<p>Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>	
<p><b>27.</b> Power to execute urgent works.</p>	<p>Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.</p>	
<p><b>28.</b> Any other planning related functions which are or become a function which cannot be exercised by the Executive.</p>		

<p><b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b></p>		<p><b>Except where specified all of the functions listed under this section B will be exercised by the Director of Environment and Culture or a person nominated or authorised by him or her, except those functions which are the responsibility of the Alcohol and Entertainment Licensing Committee, the Alcohol and Entertainment Licensing Sub-Committees or the General Purposes Licensing Sub-Committee or are required to be determined by the Full Council</b></p>
<p><b>1. Power to issue licences authorising the use of land as a caravan site ("site licences").</b></p>	<p>Section 3(3) of the Caravan Sites and Control of Development Act 1960.</p>	
<p><b>2. Power to license the use of moveable dwellings and camping sites.</b></p>	<p>Section 269(1) of the Public Health Act 1936.</p>	
<p><b>3. Power to license hackney carriages and private hire vehicles.</b></p>	<p>(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976;</p> <p>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>N/A</p>
<p><b>4. Power to license drivers of hackney carriages and private hire vehicles.</b></p>	<p>Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>N/A</p>

<b>5.</b> Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.	N/A
<b>6.</b> Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963.	
<b>7.</b> Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963.	
<b>8.</b> Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963.	
<b>9.</b> Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968.	
<b>10.</b> Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976.	
<b>11.</b> Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976.	
<b>12.</b> Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985.	
<b>13.</b> Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968.	

<p><b>14.</b> Power to issue entertainment licences.</p>	<p>Section 12 of the Children and Young Persons Act 1933 section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982.</p>	
<p><b>14A.</b> Functions related to licensing</p>	<p>Section 5 – 8 of the Licensing Act 2003</p>	
<p><b>15.</b> Power to license sex shops and sex cinemas.</p>	<p>The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.</p>	
<p><b>16.</b> Power to license performances of hypnotism.</p>	<p>The Hypnotism Act 1952.</p>	
<p><b>17.</b> Power to license premises for acupuncture, tattooing, ear piercing and electrolysis.</p>	<p>Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.</p>	
<p><b>18.</b> Power to license pleasure boats and pleasure vessels.</p>	<p>Section 94 of the Public Health Acts Amendment Act 1907.</p>	
<p><b>19.</b> Power to register door staff.</p>	<p>Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 and Part V of the London Local Authorities Act 1995.</p>	

<p><b>20.</b> Power to license market and street trading.</p>	<p>Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 and section 6 of the London Local Authorities Act 1994).</p>	
<p><b>21.</b> Power to license night cafes and take-away food shops.</p>	<p>Section 2 of the Late Night Refreshment Houses Act 1969, Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.</p>	
<p><b>22.</b> Duty to keep list of persons entitled to sell non-medicinal poisons.</p>	<p>Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972.</p>	
<p><b>23.</b> Power to license dealers in game and the killing and selling of game.</p>	<p>Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.</p>	
<p><b>24.</b> Power to register and license premises for the preparation of food.</p>	<p>Section 19 of the Food Safety Act 1990.</p>	
<p><b>25.</b> Power to license scrap yards.</p>	<p>Section 1 of the Scrap Metal Dealers Act 1964.</p>	
<p><b>26.</b> Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.</p>	<p>The Safety of Sports Grounds Act 1975.</p>	

<p><b>27.</b> Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.</p>	<p>Part III of the Fire Safety and Safety of Places of Sport Act 1987.</p>	
<p><b>28.</b> Power to issue fire certificates.</p>	<p>Section 5 of the Fire Precautions Act 1971.</p>	
<p><b>29.</b> Power to license premises for the breeding of dogs.</p>	<p>Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.</p>	
<p><b>30.</b> Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.</p>	<p>Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.</p>	
<p><b>31.</b> Power to register animal trainers and exhibitors.</p>	<p>Section 1 of the Performing Animals (Regulation) Act 1925.</p>	
<p><b>32.</b> Power to license zoos.</p>	<p>Section 1 of the Zoo Licensing Act 1981.</p>	
<p><b>33.</b> Power to license dangerous wild animals.</p>	<p>Section 1 of the Dangerous Wild Animals Act 1976.</p>	
<p><b>34.</b> Power to license knackers' yards.</p>	<p>Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).</p>	

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<p><b>35.</b> Power to license the employment of children.</p>	<p>Part II of the Children and Young Persons Act 1933, bylaws made under that Part, and Part II of the Children and Young Persons Act 1963.</p>	<p>Director of Children and Families</p>
<p><b>36.</b> Power to approve premises for the solemnisation of marriages.</p>	<p>Section 46A of the Marriage Act 1949 and the Marriages (Approved Premises) Regulations 1995 (S. I. 1995/510).</p>	<p>Director or Assistant Director of Environment and Culture (<a href="#">Leisure and Registration</a>).</p>
<p><b>37.</b> Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to –</p> <p>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or</p> <p>(b) an order under section 147 of the Inclosure Act 1845 (c. 8 &amp; 9 Vict. c. 118).</p>	<p>Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).</p>	
<p><b>38.</b> Power to register variation of rights of common.</p>	<p>Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).</p>	
<p><b>39.</b> Power to license persons to collect for charitable and other causes.</p>	<p>Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.</p>	
<p><b>40.</b> Power to grant consent for the operation of a loudspeaker.</p>	<p>Schedule 2 to the Noise and Statutory Nuisance Act 1993.</p>	

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<b>41.</b> Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991.	
<b>42.</b> Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957.	
<b>43.</b> Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).	
<b>44.</b> Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.	
<b>45.</b> Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.	
<b>46.</b> Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).	
<b>46A.</b> Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers.	Section 115E, 115F and 115K of the Highways Act 1980	
<b>47.</b> Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980.	
<b>47A.</b> Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980	Section 115G of the Highways Act 1980(a)	
<b>48.</b> Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.	

<b>49.</b> Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.	
<b>50.</b> Power to license works in relation to buildings etc., which obstruct the highway.	Section 169 of the Highways Act 1980.	
<b>51.</b> Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.	
<b>52.</b> Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.	
<b>53.</b> Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.	
<b>54.</b> Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980.	
<b>55.</b> Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.	
<b>56.</b> Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematography Film Act 1922.	
<b>57.</b> Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082).	
<b>58.</b> Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).	
<b>59.</b> Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).	

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<b>60.</b> Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).	
<b>61.</b> Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).	
<b>62.</b> Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).	
<b>63.</b> Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
<b>64.</b> Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	N/A
<b>65.</b> Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	N/A
<b>66.</b> Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.	
<b>67.</b> Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).	
<b>68.</b> Power to register food business premises.	Regulation 9 of the Food Premises (Registration) Regulations 1991.	

<p><b>69.</b> Power to issue near beer licences.</p>	<p>Section 16 to 19 of the London Local Authorities Act 1995 and to the extent that it does not have effect by virtue of regulation 2(3), section 25 of that Act.</p>	
<p><b>70.</b> Power to register premises or stalls for the sale of goods by way of competitive bidding.</p>	<p>Section 28 of the Greater London Council (General Powers) Act 1984.</p>	
<p><b>71.</b> Any other licensing related functions which are or becomes a function which cannot be exercised by the Executive.</p>		
<p><b>C. Functions relating to health and safety at work</b></p>		<p><b>All of the functions listed under this section C will be exercised by the Director of Environment and Culture or by a person nominated or authorised by him or her</b></p>
<p>1. Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.</p> <p>2. Any other health &amp; safety related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.</p>	<p>Part I of the Health and Safety at Work etc. Act 1974.</p>	
<p><b>D. Functions relating to elections</b></p>		

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<b>1.</b> Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983.	Full Council
<b>2.</b> Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.	Chief Executive
<b>3.</b> Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.	N/A
<b>4.</b> Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.	N/A
<b>5.</b> Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.	N/A
<b>6.</b> Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.	Full Council
<b>7.</b> Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978.	Chief Executive
<b>8.</b> Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.	Full Council
<b>9.</b> Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.	Full Council
<b>10.</b> Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.	N/A
<b>11.</b> Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.	Chief Executive
<b>12.</b> Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.	N/A

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13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.	Chief Executive
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.	Chief Executive
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.	NA
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).	Electoral Services Manager
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000.	
18. Any other election related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.		Full Council
<b>E. Functions relating to name and status of areas and individuals</b>		<b>All of the functions listed in this section will be exercised by the Full Council</b>
1. Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.	
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.	N/A
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.	

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<p><b>4. Power to petition for a charter to confer borough status.</b></p>	<p>Section 245(b) of the Local Government Act 1972.</p>	
<p><b>5. Any other similar function in this category which by statutory instrument or order are or become functions which cannot be exercised by the Executive.</b></p>		
<p><b>F. Power to make, amend, revoke or re-enact bylaws</b></p>	<p><b>Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978</b></p>	<p><b>Full Council</b></p>

<p><b>G. Power to promote or oppose local or personal Bills</b></p>	<p><b>Section 239 of the Local Government Act 1972</b></p>	<p><b>Full Council</b></p>
<p><b>H. Functions relating to pensions etc.</b></p>		<p>All of the functions listed in this section will be exercised by the Director of Finance and Corporate Resources except those functions which fall within the terms of reference of the General Purposes Committee or the Pension Fund Sub-Committee and the determination of “stage 2” applications under Regulation 102 of the Local Government Pension Scheme Regulations 1997 on behalf of the Council as Administering Authority and as employer in the case of discretionary matters covered by the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2000 and earlier equivalent Regulations. <u>These functions, shall be exercised by the Deputy Director of Corporate Services or by the Deputy Director of Human Resources and Diversity and the Director of Finance and Corporate Resources shall nominate one of these post holders to determine each such application.</u><sup>9</sup></p>
<p><b>1. Functions relating to local government pensions, etc.</b></p>	<p>Regulations under section 7, 12 or 24 of the Superannuation Act 1972.</p>	

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<sup>9</sup> Council has responsibility to determine Stage 2 disputes under the required internal disputes regulations. It is proposed that in order to ensure availability an additional postholder able to fulfil this role is identified and the Director of Finance and Corporate Resources have power to determine which of the two nominated postholders should act in relation to any specific dispute.

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<p><b>2.</b> Functions under the Fireman's Pension Scheme relating to pensions, etc. as respects persons employed as members of fire brigades maintained pursuant to section 4 of the Fire Services Act 1947.</p>	<p>Section 26 of the Fire Services Act 1947.</p>	<p>N/A</p>
<p><b>3.</b> Any other pension related functions which by statutory instrument or order are or become functions which cannot be exercised by the Executive.</p>		
<p><b>I. Miscellaneous functions</b></p>		
<p><b>Part I: Functions relating to public rights of way</b></p>		<p><b>All of the functions listed under Part 1 of this section will be exercised by the Director of Environment and Culture or by a person nominated or authorised by him or her unless falling within the terms of reference of the Highways Committee of the Executive or within the terms of reference of a Council committee or sub-committee or unless otherwise specified</b></p>
<p><b>1.</b> Power to create footpath or bridleway by agreement.</p>	<p>Section 25 of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>2.</b> Power to create footpaths and bridleways.</p>	<p>Section 26 of the Highways Act 1980.</p>	<p>General Purposes Committee</p>
<p><b>3.</b> Duty to keep register of information with respect to maps, statements and declarations.</p>	<p>Section 31A of the Highways Act 1980.</p>	
<p><b>4.</b> Power to stop up footpaths and bridleways.</p>	<p>Section 118 of the Highways Act 1980.</p>	<p>General Purposes Committee</p>

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<b>5.</b> Power to determine application for public path extinguishment order.	Sections 118ZA and 118C(2) of the Highways Act 1980.	General Purposes Committee
<b>6.</b> Power to make a rail crossing extinguishment order.	Section 118A of the Highways Act 1980.	General Purposes Committee
<b>7.</b> Power to make a special extinguishment order.	Section 118B of the Highways Act 1980.	General Purposes Committee
<b>8.</b> Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.	
<b>9.</b> Power to make a public path diversion order.	Sections 119ZA and 119C(4) of the Highways Act 1980.	
<b>10.</b> Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.	
<b>11.</b> Power to make a special diversion order.	Section 119B of the Highways Act 1980.	
<b>12.</b> Power to require an applicant for a special diversion order to enter into an agreement to defray or make such contribution as is specified in the agreement.	Section 119C(3) of the Highways Act 1980.	
<b>13.</b> Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.	
<b>14.</b> Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.	
<b>15.</b> Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.	
<b>16.</b> Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.	

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<b>17.</b> Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.	
<b>18.</b> Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.	
<b>19.</b> Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980.	
<b>20.</b> Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980.	
<b>21.</b> Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.	
<b>22.</b> Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.	
<b>23.</b> Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981.	General Purposes Committee
<b>24.</b> Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c. 69).	
<b>25.</b> Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.	
<b>26.</b> Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.	
<b>27.</b> Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.	General Purposes Committee

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<b>28.</b> Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.	
<b>29.</b> Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.	
<b>30.</b> Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981.	General Purposes Committee
<b>30A.</b> Power to authorise stopping up or diversion of highway	Section 247 of the Town and Country Planning Act 1990(c. 8)	General Purposes Committee
<b>31.</b> Power to authorise stopping-up or diversion of footpath or bridleway.	Section 257 of the Town and Country Planning Act 1990.	General Purposes Committee (in relation to stopping up only)
<b>32.</b> Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.	General Purposes Committee
<b>33.</b> Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.	
<b>34.</b> Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.	
<b>Part II: Other miscellaneous functions</b>		
<b>35.</b> Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966.	N/A
<b>36.</b> Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.	Full Council

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<p><b>37.</b> Power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal).</p>	<p>Section 112 of the Local Government Act 1972.</p>	<p>The relevant Service Area or Corporate Director may appoint staff on such terms and conditions as they may determine but which are in line with any overall terms and conditions agreed by the General Purposes Committee save that, in the case of posts covered by the Standing Orders Relating to Staff, the terms and conditions shall be determined by the General Purposes Committee and the appointment made by the Senior Staff Appointments Sub-Committee.</p>
<p><b>38.</b> Power to make standing orders as to contracts.</p>	<p>Section 135 of the Local Government Act 1972.</p>	<p>Full Council</p>
<p><b>39.</b> Duty to make arrangements for proper administration of financial affairs etc.</p>	<p>Section 151 of the Local Government Act 1972.</p>	<p>Director of Finance and Corporate Resources</p>
<p><b>40.</b> Power to appoint an officer for a particular purpose (appointment of "proper officer").</p>	<p>Section 270(3) of the Local Government Act 1972.</p>	<p>The Chief Executive or the relevant Chief Officer in whose area of responsibility the matter relates.</p>
<p><b>41.</b> Power to make limestone pavement order.</p>	<p>Section 34(2) of the Wildlife and Countryside Act 1981.</p>	<p>N/A</p>
<p><b>42.</b> Power to make closing order with respect to take-away food shops.</p>	<p>Section 4 of the Local Government (Miscellaneous Provisions) Act 1982.</p>	<p>Director of Environment and Culture</p>
<p><b>43.</b> Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.</p>	<p>Section 4(1) of the Local Government and Housing Act 1989.</p>	<p>Full Council</p>
<p><b>44.</b> Duty to designate officer as the monitoring officer, and to provide staff, etc.</p>	<p>Section 5(1) of the Local Government and Housing Act 1989.</p>	<p>Full Council</p>
<p><b>44A.</b> Duty to provide staff, etc to person nominated by the Monitoring Officer.</p>	<p>Section 82A(4) and (5) of the Local Government Act 2000</p>	<p>Full Council</p>

<b>44B.</b> Powers relating to overview and scrutiny committees (voting rights of co-opted members).	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000	Full Council
<b>45.</b> Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 2003 (S.I. 2003/533).	General Purposes Committee
<b>46.</b> Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).	Director of Environment and Culture
<b>47.</b> Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).	Director of Environment and Culture
<b>47A.</b> Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003.	
<b>48.</b> Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.	The relevant director within whose area of responsibility the maladministration arose.
<b>J. Other functions which are not to be the responsibility of the Executive</b>		
<b>1.</b> Members allowances.		Full Council
<b>2.</b> Establishing committees under section 101 of the Local Government Act 1972.		Full Council
<b>3.</b> Except where specified any function which by virtue of any enactment passed or made before 19 <sup>th</sup> October 2000 may be discharged only by an Authority.		Full Council unless otherwise specified elsewhere in the Constitution.

**TABLE 2**

**FUNCTIONS WHERE THE COUNCIL HAS A CHOICE OF EXERCISING THEM THROUGH EITHER THE EXECUTIVE OR THE COUNCIL AND THE PERSON OR BODY TO WHOM, IF ANY, THE FUNCTION HAS BEEN DELEGATED**

<b>(1) Function</b>	<b>(2) Executive or Council</b>	<b>(3) Delegated to</b>
<p><b>1.</b> Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.</p>	<p>If the function is a function, which is of a similar type, class or nature to the other functions of the Executive, the function will be exercised by the Executive. Otherwise the function will be exercised by the Council.</p>	<p>The officer responsible for those types of functions, as set out in Parts 4 or 5 of the Constitution or if none then, in the case of a Council function, the committee or sub-committee responsible for those types of functions.</p>
<p><b>2.</b> The determination of an appeal against any decision made by or on behalf of the authority.</p>	<p>Council</p>	<p>The relevant Chief Officer within whose Service Area or Corporate Unit the subject matter of the appeal falls or if the matter may not be determined by officers the General Purpose Committee or the Licensing Sub-Committee if the matter falls within its terms of reference.</p>
<p><b>3.</b> The appointment of review boards under regulations under subsection (4) of section 34 (Determination of Claims and Reviews) of the Social Security Act 1998.</p>	<p>No longer relevant</p>	
<p><b>4.</b> The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools</p>	<p>Executive</p>	<p>Director of Children and Families</p>
<p><b>5.</b> The making of arrangements pursuant to section 94(1), (1A) and (4) of the 1998 Act</p>	<p>Executive</p>	<p>Director of Children and Families</p>

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(admissions appeals)		
<b>6.</b> The making of arrangements pursuant to section 95(2) of the 1998 Act (children to whom section 87 applies: appeals by governing bodies)	Executive	Director of Children and Families
<b>7.</b> The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	N/A	
<b>8.</b> The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	N/A	
<b>9.</b> The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Executive	
<b>10.</b> Any function relating to contaminated land.	Executive	Director of Environment and Culture
<b>11.</b> The discharge of any function relating to the control of pollution or the management of air quality.	Executive	Director of Environment and Culture
<b>12.</b> The service of abatement notice in respect of a statutory	Executive	Director of Environment and Culture

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nuisance.		
<b>13.</b> The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Full Council	
<b>14.</b> The inspection of the authority's area to detect any statutory nuisance.	Executive	Director of Environment and Culture
<b>15.</b> The investigation of any complaint as to the existence of a statutory nuisance.	Executive	Director of Environment and Culture
<b>16.</b> The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	The Council if the information is required for the purposes of a Council function and the Executive if for the purposes of an Executive function.	The relevant director who has responsibility for the function in question.
<b>17.</b> The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	The Council if the particulars are required for the purposes of a Council function and the Executive if for the purposes of an Executive function.	The relevant director who has responsibility for the function in question.
<b>18.</b> The making of agreements for the execution of highways works.	Executive, unless the need for the highways agreement has arisen from a planning decision in which case the responsibility shall be with the Council.	Director of Environment and Culture or Planning Committee if it falls within the committee's terms of reference.
<b>19.</b> The appointment of any individual –  (a) to any office other than an office in which he or she is employed by the authority;  (b) to any body other than –  (i) the authority;  (ii) a joint committee of two or more authorities; or	The Council	In the case of a member of staff, the relevant director in whose department or service area the member of staff is employed. In the case of the Councillor appointments they shall be made by Full Council as soon as possible after the Annual Meeting of the Council and then again by the Full Council or the General Purposes

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<p>(c) to any committee or sub-committee of such a body and the revocation of any such appointment.</p>		<p>Committee if a vacancy arises during that municipal year.</p>
<p><b>20.</b> The making of arrangements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>If the arrangement is in connection with a function of the Executive then the Executive shall make the arrangement. If the arrangement is in connection with a function which is the responsibility of the Council then the Council shall make the arrangement.</p>	<p>In either case the relevant director within whose area of responsibility the function lies.</p>
<p><b>21.</b> Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph 1 of this schedule).</p>	<p>N/A</p>	

**TABLE 3**

**FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF THE EXECUTIVE**

1. The Executive is responsible for formulating or preparing the plans listed in the Table below and then submitting them to the Full Council for consideration and adoption or approval:

<b>Plans and Strategies</b>	<b>Reference</b>	<b>Mandatory (M) or Discretionary (D) Plan</b>
Annual Library plan	Section 1(2) of the Public Libraries and Museums Act 1964	M
Best Value Performance Plan	Section 1 of the Local Government Act 1999	M
Childrens Services Plan	Paragraph 1A of Schedule 2 of the Children Act 1989	M
Community Care Plan <u>(The Community Care Plans (Disapplication) (England) Order 2004 removed the requirement to produce this plan)</u>	Section 46 of the National Health Service & Community Care Act 1990	M
Community Strategy	Section 4 of the Local Government Act 2000	M
Crime and Disorder Reduction Strategy	Section 5 and 6 of the Crime and Disorder Act 1998	M
Early Years Development Plan	Section 120 of the School Standards and Framework Act 1998	M
Education Development Plan	Section 6 of the School Standards and Framework Act 1998	M
Development Plan Documents	Section 15 of the Planning and Compulsory Purchase Act 2004	M
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998	M
Interim Local Implementation Plan for the Mayor's Transport Strategy	Section 108(3) of the Transport Act 2000	M

**Deleted:** (may soon be replaced by the HIMP)

A plan or strategy for the control of the authority's borrowing <u>investments</u> <sup>10</sup> or capital expenditure		M
The strategy and plan which comprise the housing investment programme		D
Local Agenda 21 Strategy		D
Adult Learning Plan		D
Quality Protects Management Action Plan		D
Corporate Strategy		D
Annual Policy Programme		D
Statement of Licensing Policy	Section 5 of the Licensing Act 2003	D
Any other plan or strategy (whether statutory or non statutory) which the authority determines should be approved or adopted by the authority and not the Executive.		D

2. The Executive or a member of the Executive may not in relation to those plans or strategies listed above do the following:-
- (a) give an instruction requiring the Executive to reconsider any draft plan or strategy submitted by the Executive for consideration by the Council;
  - (b) amend any draft plan or strategy submitted by the Executive for consideration by the Executive;
  - (c) approve for the purpose of its submission to the Secretary of State for independent examination, a development plan document;
  - (d) approve, for the purposes of its submission to the Secretary of State or any Minister of the Crown for his or her approval, any such plan or strategy required to be so submitted for approval; nor
  - (e) adopt with or without modification the plan or strategy.

<sup>10</sup> [The Local Authorities \(Functions and Responsibilities\) \(Amendment\) \(England\) Regulations 2004 amended paragraph \(1\)\(b\) of regulation 4 of the Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000 \('Functions not to be the sole responsibility of an authority's executive'\). The effect of the amendment was to extend the range of plans and strategies which have to be adopted by full Council to include a plan or strategy for the control of the Council's investments. Since the regulations came into effect the Treasury Management Strategy has been referred to the Full Council for approval on each occasion. The proposed amendment to Table 3 in Part 4 gives effect to this change](#)

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3. The Executive may amend, modify, revise, vary, withdraw or revoke any such plan or strategy only where such amendment, modification, revision, variation, withdrawal or revocation is:-
  - (a) required for giving effect to any requirements of the Secretary of State or a Minister of the Crown in relation to any such plan or part thereof submitted to him or her for approval; or
  - (b) in the case of development plan documents recommended by the person carrying out an independent examination of any such document; or
4. The Executive may make an application:-
  - (a) under subsection (5) of section 135 (programmes for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993 for the inclusion of a disposal in a disposal programme;
  - (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;

PROVIDED that the Council has authorised the making of such an application.
5. The following shall, subject to paragraph 6 below, be the responsibility of the Council; to make any calculation required to be made in accordance with sections 32 to 37, 43 to 49, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992 whether originally or by way of substitute.
6. In relation to those functions listed in the paragraph above the Executive may:-
  - (a) prepare estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation for submission to the appropriate part of the Council for consideration;
  - (b) prepare the amounts required to be stated in the precept for submission to the appropriate part of the Council for consideration;
  - (c) reconsider those estimates and amounts in accordance with the Council's requirements; and
  - (d) submit for the consideration by the appropriate part of the Council the revised estimates and amounts.
7. The discharge of functions under Sections 28 to 31 of the Planning and Compulsory Purchase Act 2004 (joint local development documents and joint committees) shall, subject to paragraph 8 below, be the responsibility of the Executive.
8. In relation to the functions listed in paragraph 7 above the Executive may not:-
  - (a) make an agreement to prepare one or more joint development plan documents;
  - (b) make an agreement to establish a joint committee to be, for the purposes of Part 2 (local development) of the 2004 Act, the local planning authority;

- (c) where the authority is a constituent authority to a joint committee, make an agreement that the joint committee is to be, for the purposes of Part 2 of the 2004 Act, the local planning authority for any area or matter which is not the subject of an order under section 29 of the 2004 Act or an earlier agreement under section 30 of the 2004 Act; or
  - (d) make a request to the Secretary of State for the revocation of an order constituting a joint committee as the local planning authority for any area or in respect of any matter.
9. Where a function which is subject to an Order made under section 70 of the Deregulation and Contracting Out Act 1994 is the responsibility of the Executive then the Executive may authorise another person to exercise that function and may revoke any such authorisation.
10. Where a function which is subject to an Order made under section 70 of the Deregulation and Contracting Out Act 1994 is not the responsibility of the Executive then the Executive may not authorise another person to exercise that function and nor may it revoke any such authorisation.

**TABLE 4**

**THE MEMBERSHIP AND TERMS OF REFERENCE OF THE HIGHWAYS COMMITTEE OF THE EXECUTIVE**

**Membership**

The committee is comprised of 5 members of the Executive.

**Chair and Vice Chair**

To be elected by the committee.

**Quorum**

3 Executive members.

**Terms of Reference**

The committee will be responsible for the following functions: -

1. Scheme approval for traffic management and related matters associated with the public highway, public rights of way and off-street car and lorry parks. Traffic management includes traffic calming, signals, pedestrian crossings, bus lanes, cycle routes, stopping up orders, controlled parking zones, waiting restrictions and charges for parking and penalty charges.
2. Reviewing performance of the implementation of schemes and of parking enforcement.
3. Any other matter relating to traffic management which the Director of Environment and Culture considers should be referred to the Committee for a decision.

**TABLE 5**

**PROPER AND STATUTORY OFFICER PROVISIONS**

The following definitions are used in this Table:-

LGA 1972	=	Local Government Act 1972
LG(MP)A 1976	=	Local Government (Miscellaneous Provisions) Act 1976
RPA 1983	=	Representation of the People Act 1983
LGFA 1988	=	Local Government Finance Act 1988
LGHA 1989	=	Local Government and Housing Act 1989
LGA 2000	=	Local Government Act 2000
FOIA 2000	=	Freedom of Information Act 2000

\*Chief Officers also have power delegated to them in the table found at paragraph 2.5 of this Part 4 to designate proper officers falling within their area of responsibility.

The following officers and their deputies or person nominated by them for the purpose shall be the proper officer for the purpose specified:-

<b>(1) statutory provision</b>	<b>(2) Function</b>	<b>(3) Proper Officer</b>
Section 83 LGA 1972	Witness and receipt of declarations of acceptance of office of Mayor, Deputy Mayor and Councillors.	Democratic Services Manager
Section 84 LGA 1972	Receipt of notice of resignation of office of Mayor, Deputy Mayor and Councillors.	Democratic Services Manager
Section 88 LGA 1972	Convening of meeting for the election of Mayor in the event of a casual vacancy.	Democratic Services Manager
Section 89 LGA 1972	Receipt of notice of casual vacancies in the council membership.	Democratic Services Manager
Section 100 LGA 1972	All references to proper officer in connection with the access to information provisions of the Local	Democratic Services Manager

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	Government Act.	
Section 115 LGA 1972	Receipt of monies from accountable officers.	Director of Finance and Corporate Resources
Section 146 LGA 1972	Certificates as to securities on alteration to local authority area or name.	Borough Solicitor
Section 151 LGA 1972	Officer with responsibility for the council's financial affairs.	Director of Finance and Corporate Resources
Section 225 LGA 1972	Deposit of any documents pursuant to any enactment, instrument or parliamentary standing orders.	Democratic Services Manager
Section 229 LGA 1972	Certification of any photographic copy of a document in the custody of the council or of any document destroyed while in which custody, or any part of any such document.	Borough Solicitor
Section 233 LGA 1972	Receive documents required to be served on the Council.	The Chief Executive or the Borough Solicitor
Section 234(1) LGA 1972	Signature or authentication of any notice or other document which the local authority is authorised or required to give or make or issue.	All officers specified in paragraph 2.3 of this Part 4.
Section 238 LGA 1972	Certification of printed copies of by-laws.	Borough Solicitor
Section 41 LG(MP)A 1976	Certification of Minutes, Resolutions, Orders and Reports of the council.	Democratic Services Manager
Section 35 RPA 1983	The Returning Officer at an election of Councillors of the borough.	Chief Executive
Section 8 RPA 1983	The Electoral Registration Officer of any constituency in the borough.	Chief Executive
Section 72 Weights and	Functions of Chief	Director of Trading Standards

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Measures Act 1985	Inspector of Weights and Measures.	
Section 114 LGFA 1988	Report to Council concerning unlawful expenditure.	Director of Finance and Corporate Resources
Section 2 LGHA 1989	Deposit of list of "politically restricted posts" under LGHA 1989.	Director of Human Resources and Diversity
Section 4 LGHA 1989	Head of paid service.	Chief Executive
Section 5 LGHA 1989	Monitoring officer.	Borough Solicitor
Regulation 23 Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989	Certification of the Local Non-Domestic List.	Director of Finance and Corporate Resources
Accounts and Audit Regulations 2003	The responsible financial officer.	Director of Finance and Corporate Resources
Births deaths and marriages	Any reference to the proper officer in any enactment relating to registration of births, death or marriages.	Assistant Director of Environment and Culture (Policy and Regulation)
LGA 1972, Schedule 12, Part 1, Paragraph 4(2)(b)	Signature of summonses to Council meetings and receipt of notices of addresses to which summonses to meetings to be sent.	Chief Executive
Local Government (Committees and Political groups) Regulations 1990	Receipt of notification from members.	Democratic Services Manager
LGA 2000, section 81	Establishment and maintenance of the register of interests of members including voting co-opted members.	Borough Solicitor acting as Monitoring Officer
Local Authorities (Standing Orders) Regulations 2000	Notices under regulations 5 and 6 regarding proposed appointments of staff.	Director of Human Resources and Diversity
Local Authorities (Referendums) (Petitions and Directions) Regulations	Functions relating to verification and publicity of petitions.	Chief Executive

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Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	All references to the proper officer.	Democratic Services Manager unless otherwise specified in the Regulations or the Constitution.
Local Authorities (Conduct of Referendums) (England) Regulations 2001	All references to the proper officer.	Chief Executive
Public Health (Control of Diseases) Act 1984 and the Public Health (Infectious Diseases) Regulations 1988	All references to the proper officer	Director of Environment and Culture
Section 36 FOIA 2000	Qualified person for decision on exempt information not to be disclosed	Borough Solicitor
Generally *	Any other proper officer function not otherwise designated.	Chief Executive

**TABLE 6**

**LIST OF FUNCTIONS THAT MAY ONLY BE EXERCISED BY FULL COUNCIL**

*(Items in italics and marked with an asterisk are not reserved to the Full Council under the law but are only exercisable by the Full Council under this Constitution)*

1	The levying or issuing of a precept for a rate <sup>11</sup> and the setting of council tax and limits for borrowing money.	Local Government Finance Act 1988. Local Government Finance Act 1992. Section 3 Local Government Act 2003
2	The establishment and abolition of Committees, and Joint Committees (with other local authorities) and the appointment, replacement and removal of members of them other than in cases where the Executive is entitled to make appointments to joint committees <i>and, except in the case of the Overview Committee and the Scrutiny Committee, the appointment, replacement and removal of the Chairs, and Vice Chairs of them.*</i>	Local Government Act 1972.  Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000.
3.	Resolution to operate executive arrangements.	Section 29 of the Local Government Act 2000.
4.	Authorisation of applications to Secretary of State for approval of Housing Land Transfers.	Leasehold reform and Urban Development Act 1993.  Sections 32 and 43 of the Housing Act 1985.
5.	<i>Approving the work programme of the Overview Committee and the Scrutiny Committee*.</i>	
6	Subject to the urgency procedure in the Standing Orders of this Constitution to make decisions about any function of the Executive where the decision maker is minded to make a decision which would be contrary to the policy framework or not wholly in accordance with the budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

**Deleted:** , the setting of the council tax base

<sup>11</sup> The Local Government Act 2003 removed the requirement for the Council Tax Base to be agreed by Full Council. This can now be done by the General Purposes Committee.

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7	Adopting or amending a members allowances scheme.	Section 18 of the Local Government and Housing Act 1989.  Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
8	Electing and dismissing the Leader <i>and appointing and dismissing other members of the Executive</i> .*.	Section 11 of the Local Government Act 2000.
9	Adoption of the Members' Code of Conduct .	Section 51 of the Local Government Act 2000.
10	Approval of the appointment or dismissal of the Chief Executive.	The Local Authorities (Standing Orders) (England) Regulations 2001.
11	Adoption of the Policy Framework and the Budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
12	Changing the name of the borough.	Section 74 of the Local Government Act 1972.
13	Appointment of the Mayor.	Schedule 4 to the Local Government Act 1972.
14	Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
15	The making, altering or revoking of standing orders except as provided for in Standing Order 3.	Sections 29, 106 and Schedule 12 of the Local Government Act 1972.  Sections 8 and 20 Local Government and Housing Act 1989.
16	Power to make, amend, revoke or re-enact byelaws.	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
17	Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
18	The making of an agreement to establish a joint planning committee or to prepare a joint development plan document or to request the Secretary of State to revoke an order establishing such a joint committee	Sections 28 to 31 of the Planning and Compulsory Purchase Act 2004  The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

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19	Any other matter that by law is reserved for consideration, approval or resolution by the Council.	
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