

PART 3

RESPONSIBILITY

FOR

FUNCTIONS

PART 3 - RESPONSIBILITY FOR FUNCTIONS

1. General

1.1 The Authority's functions may lawfully be exercised by:-

- Council
- The Executive
- Individual members of the Executive (although for the time being individual members will not be exercising functions other than as set out at paragraph 3.1 below)
- Individual Ward Members (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 properly authorised under specific legislation

1.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) specify which functions are not to be the responsibility of the Executive, which functions may (but need not) be the responsibility of the Executive and which functions are to some extent the responsibility of the Executive.

1.3 This Part of the Constitution and Appendices 1 and 2 set out whether the various functions of the council are executive or non-executive and whether, in either case, they have been delegated to a committee, sub-committee, joint committees, officer or other person or body. The table at Part 3 paragraph 7.1 sets out the powers which are reserved to the Council itself. The table at Appendix 2 sets out the other functions which the legislation does not permit the Executive to be responsible for.

2. EXECUTIVE FUNCTIONS

2.1 All functions of the Authority which are not the responsibility of any other part of the Authority, whether by law or, where the law provides a choice, under the Constitution, are the responsibility of the Executive. The exercise of executive functions may be delegated where the law permits.

3. EXECUTIVE PORTFOLIOS

3.1 Members of the Executive have responsibility for setting the direction and being accountable for the operation of the services comprised within their respective portfolios and for bringing forward proposals to the Executive in respect of them. However, subject to the following paragraphs, no individual Executive Member will be entitled to take an Executive decision. Such decisions will be taken either by the Executive as a whole or a sub-committee of it or by officers in accordance with the provisions set out below. Although the portfolio responsibilities are determined by the Council, the decision as to which Executive Member has responsibility for which portfolios shall be a matter for the Leader.

4. MATTERS RESERVED FOR EXECUTIVE DECISION

The following functions shall only be exercised by the Executive, or a sub-committee appointed by it:

4.1 GENERAL

- (a) To formulate the Council's overall policy objectives and priorities, recommending them to Council for approval where appropriate.
- (b) To determine the authority's strategy and programme in relation to the policy and budget framework set by the Council.
- (c) To determine the authority's strategy and programme in relation to the social, environmental and economic needs of the area.
- (d) To have responsibility for agreeing the Sustainable Community Strategy and recommending it to Council.
- (e) To oversee the Council's functions in relation to community engagement, including the formulation of Council strategies for communications, consultation, capacity building and active citizenship, and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
- (f) To oversee the Council's functions in relation to regeneration and social inclusion, including the formulation of Council strategies, and their co-ordination and implementation with particular reference to the provisions of relevant legislation.
- (g) To oversee and promote initiatives on "best value" across the Council.
- (h) To consider and promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.
- (i) To agree the Council's policies on equalities matters and recommending them to Council where appropriate;
- (j) To monitor the implementation and co-ordination of the policies, procedures and good practice within the Council to prevent and counter harassment or discrimination.
- (k) To calculate the annual budget for income and expenditure including the overall Capital Investment Strategy, the Housing Revenue Account Estimates and rents of dwelling houses and fixing charges and the allocation of budgets to departments, recommending these to Council where appropriate.
- (l) Monitoring of the budget and recovery of debt.

- (m) To oversee and take responsibility for effective joint work with partner agencies including functions relating to the Local Area Agreement which are not reserved to the Council.
- (n) To have responsibility for the Council's role as corporate parent.
- (o) Agreeing any significant reduction in or cessation of any service.
- (p) The award of all contracts above the values set out in the Procurement Code and Financial Regulations.
- (q) To consider whether the Council should give evidence before a Royal Committee, Government Committee or similar body and agree the nature of that evidence.
- (r) To delegate to appropriate sub-committees of the Executive, and to Directors and to receive regular information reports from them with particular reference to value for money; service implementation and development; client/customer service and performance; and the performance and achievement of equalities objectives.

4.2 CHILDREN

- (a) Approving the overall strategy in relation to the provision of services in particular approval of the Education Development Plan, Children and Young People Plan and other plans, recommending these to Council for approval where appropriate.
- (b) Agreeing the establishment of new schools or other education establishments and the alteration or cessation of any existing schools and establishments (save for pupil referral units).
- (c) The consideration on a regular basis of performance information across all LEA services.
- (d) The submission of Schemes for the Local Management of Schools to the Secretary of State for approval if necessary.
- (e) The determination of the total schools' budget and individual school's budget
- (f) The settling of admissions policies for community and nursery schools.
- (g) The approval of policies and the monitoring of procedures relating to student awards.
- (h) The approval of policies and the monitoring of procedures relating to pupils attendance and exclusions.
- (i) The consideration of policies and the monitoring of procedures relating to special educational needs provision.
- (j) The approval of eligibility criteria for forms of assistance provided by the LEA for pupils in schools.

- (k) To receive reports on the authority's role as a corporate parent including:
 - (i) health status of looked after children;
 - (ii) education attainment of looked after children;
 - (iii) after care and longer term outcomes for looked after children;
 - (iv) quality and duration of placements;
 - (v) children who abscond or go missing from placements.
- (l) To act on the Council's behalf in any joint governance arrangements for the delivery or commissioning of children's and community care services with the National Health Service.
- (m) To receive reports of any death, serious injury, abuse, allegations of abuse or any other matters of serious concern in respect of a client of the Children's Service Department in circumstances which give cause for concern in relation to the wider service. To consider reports on incidents where there has been an apparent failure to protect a client from serious harm, including Part 8 Reviews.

4.3 SUSTAINABILITY

- (a) Recommending to Council the adoption of Development Plan documents.
- (b) Agreeing the overall strategy in relation to environmental quality management policy, Best Value Initiatives, and other plans, priorities and targets.
- (c) Considering responses to external authorities where they relate to strategic highways improvements or traffic or parking management having a major impact on transportation within the borough.
- (d) Monitoring of air and water quality in the borough, implementation of the Council's air quality strategy, the Council's recycling and waste management plans, energy conservation strategies and environmental stewardship initiatives and relevant local Agenda 21 matters.
- (e) Receiving and considering statutory reports e.g. weights and measures.
- (f) Monitoring the performance of services within the Environment and Regeneration Department (including monitoring against local and national performance indicators) and reporting issues to the Executive where appropriate.
- (g) Approving priorities and the programme of individual schemes contained within the Local Implementation Plan (Interim Transport Plan), including schemes forming part of London-wide strategic networks.
- (h) Agreeing delivery plans for EC1 New Deal.
- (i) Approving the Local Development Scheme and Supplementary Planning Documents.
- (j) Agreeing for consultation and adopting site specific planning briefs or supplementary planning guidance or other similar documents which, in the opinion

of the Director of Environment and Regeneration, have significant or strategic implications.

4.4 FINANCE AND PROPERTY

- (a) Within the overall budgetary framework set by the Council and subject to the Council's financial regulations, to take decisions on all matters relating to the Council's finances including (but not limited to) the following:
 - (i) budgetary control;
 - (ii) allocations of both capital and revenue expenditure to and between all services;
 - (iii) significant changes to insurance arrangements;
 - (iv) the Council's borrowing and investment policy (for recommendation to Council).
 - (v) budget revisions;
 - (vi) allocation of capital and revenue contingency.
- (b) To consider the annual estimates of revenue expenditure and income and the Treasury Policy Statement and make recommendations to the Council on the council tax.
- (c) Responsibility for the Council's response and action in respect of external audit reports.
- (d) Receiving the annual external audit management letter.
- (e) To approve any major restructures of service.
- (f) To authorise the settlement of any legal proceedings to which the Council is party where such settlement involves the payment of £500,000 or more.
- (g) Approving appropriations of land from one statutory power to another whether or not this involves a reallocation of land from one service to another.
- (h) Monitoring:
 - (i) the Council's property strategy and programme;
 - (ii) action taken by directors under delegated authority in respect of property matters;
 - (iii) work undertaken by the Property Services Division, including the property, review programme of work, the performance of the commercial portfolio and Best Value performance indicators and targets;

- (i) To receive reports from all departments relating to profiled budget showing actual and accrued expenditure and to examine reasons for under/over achievement.
- (j) Reviewing the adequacy of the Council's internal control systems.
- (k) Receiving reports on serious breaches of Financial Regulations.
- (l) The declaration of land and buildings as surplus to requirements of services, save for street properties held under Part II of the Housing Act 1985 used solely for housing purposes.
- (m) Decisions on acquisitions and disposals of interests in land except:
 - (i) disposals at market value of property for a consideration of £1.5 million or less;
 - (ii) grant of leases for 20 years or less where the annual rent does not exceed £250,000
 - (iii) acquisitions of interests of 20 years or less;
 - (iv) disposals of interests at less than market value for six months or less.
- (n) Approval of acquisitions by compulsory purchase order.

4.5 PERFORMANCE

- (a) To agree the Council's corporate approach and framework for best value, including the role of members.
- (b) To recommend the annual Best Value Performance Plan to Council and to agree the programme of reviews.
- (c) To agree the Council's procurement policy and other strategic policies arising from best value.

4.6 ADULT SOCIAL SERVICES AND HOUSING

- (a) The determination of the overall strategy in relation to the provision of services, in particular approval of all housing policy.
- (b) Approving the housing investment programme bid and approval of the housing strategy statement and other plans, priorities and targets.
- (c) Setting rents for Council dwellings held for housing purposes.
- (d) To set the strategic direction of adult social services policy.
- (e) Agreeing the joint commissioning strategies and also to agree any changes in commissioning and strategic purchasing which lead to major changes in service levels (including cessation of provision) or method of delivery.

- (f) To take any decisions to enter into arrangements with an NHS body under section 75 of the National Health Service Act 2006 or to apply for Care Trust status under the Health and Social Care Act 2001.
- (g) To develop and approve any policy under which service users are charged by the Council for services provided by it.
- (h) To consider all external reviews of Adult Social Services Performance including:
 - (i) The Annual Performance Review;
 - (ii) The Joint Assessment Review;
 - (iii) Ombudsman's Reports.
- (i) Regular monitoring of the joint commissioning arrangements and joint management of services.
- (j) To monitor the Adult Social Services Department's Complaints System, and consider any general matters raised by individual complaints.
- (k) Those decisions in relation to adult social services functions which are the subject of partnership arrangements with Islington PCT (known as NHS Islington) pursuant to Section 31 of the Health Act 1999 which the Executive determines should not be taken by the Executive Member with portfolio responsibility for Health and/or Adult Social Services.

5. MATTERS DELEGATED TO AREA COMMITTEES

- 5.1 The Executive may make arrangements for the discharge of its functions by area committees pursuant to paragraph 6 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000. The executive functions the discharge of which have been delegated to the area committees are set out in Part 5 of this Constitution.
- 5.2 Notwithstanding the fact arrangements have been made for the area committees to discharge those functions, the Executive may, in accordance with the procedure set out in the Executive Procedure Rules choose to take a decision in respect of any of them itself and may review and, if necessary, overturn a decision in respect of an executive function already made by an Area Committee

6. MATTERS DELEGATED TO INDIVIDUAL EXECUTIVE MEMBERS

In relation to those social services functions exercised jointly with the Islington PCT pursuant to section 75 of the National Health Service Act 2006, the Executive Member with portfolio responsibility for social services and or health shall be entitled to take decisions on an individual basis. Where those decisions are key decisions, the relevant provisions of the Access to Information Procedure Rules and Scrutiny Procedure Rules shall apply. The fact that the Executive Member is entitled to take decisions in these circumstances shall not prevent the whole Executive from choosing to take the decision itself.

7 FUNCTIONS TO BE EXERCISE BY THE COUNCIL ITSELF

7.1 LIST OF FUNCTIONS THAT MAY ONLY BE EXERCISED BY THE COUNCIL

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

1	The levying or issuing of a precept for a rate 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, agreeing and/or amending the terms of reference for and abolition of Committees (other than of the Executive), 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 where specifically provided otherwise, 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 or to make a change in governance arrangements	Section 29 of the Local Government Act 2000. Paragraph 3 or 8 of Schedule 4 to the Local Government and Public Involvement in Health Act 2007.
4.	Authorising applications to the Secretary of State for disposals of council dwelling houses to be included in his disposals programme or for consent to such disposals where consent is required	Section 135, Leasehold Reform and Urban Development Act 1993. Sections 32 and 43 of the Housing Act 1985.

5	Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about the discharge of an Executive function where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to or not wholly in accordance with the budget	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
6	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.
7	Electing and dismissing the Leader <i>and appointing and dismissing other members of the Executive</i> *	Section 11 of the Local Government Act 2000.
8	Adoption of the Members' Code of Conduct.	Section 51 of the Local Government Act 2000.
9	Approval of the appointment or dismissal of the Chief Executive.	The Local Authorities (Standing Orders) (England) Regulations 2001.
10	Adoption or approving the Policy Framework and the Budget.	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.
11	Changing the name of the borough.	Section 74 of the Local Government Act 1972.
12	Appointment of the Mayor.	Schedule 4 to the Local Government Act 1972.
13	Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
14	The making, altering or revoking of procedural rule except as provided for in the Constitution.	Sections 29, 106 and Schedule 12 of the Local Government Act 1972. Sections 8 and 20 Local Government and Housing Act 1989.

15	Adopting and changing the Constitution except in relation to those arrangements which it is the responsibility of the Executive to make.	Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000
16	Making, amending, revoking, re-enacting or adopting byelaws.	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
17	Promoting or opposing the making of local legislation 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.
19	Power to resolve not to issue a casino premises licence and duty to publish the 3 year licensing policy	Sections 166 and 349 of the Gambling Act 2005
20	<i>Appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council.</i>	The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended
21	Any other matter that by law is reserved for consideration, approval or resolution by the Council including those identified in Appendix 2.	

7.2 The Council shall also be responsible for making appointments to outside bodies (other than to Boards as referred to in Article 11.01(b) and (c)) and appointing people to serve on schools admission and exclusion appeal panels although the Audit Committee shall also have power to make such appointments.

7.3 Other non-executive functions are delegated to the body within the terms of reference of which the function falls or, if none, to officers.

8. OFFICER DELEGATIONS

8.1 All matters not reserved to a decision-making body or individual above or by Financial Regulations are deemed to be delegated to the Chief Executive or relevant Corporate Director and notwithstanding the reservations of matters such bodies shall be entitled to delegate decisions to directors or the Chief Executive on a case by case basis unless prohibited by legislation from doing so.

8.2 The relevant Corporate Director may be determined as follows:

- (a) all matters within the Environment and Regeneration Department, to the Corporate Director of Environment and Regeneration;
- (b) all matters within the Children's Department, to the Corporate Director of Children's Services;
- (c) all matters within the Housing and Adult Social Services Department, to the Corporate Director of Housing and Adult Social Services;
- (d) all matters within the Department of Finance to the Director of Finance;
- (e) all matters within the Corporate Resources Department, to the Corporate Director of resources, including the authority to institute, defend or settle any legal proceedings, arbitration or planning appeal,

save that each Corporate Director may have responsibility for other corporate matters from time to time.

8.3 The Chief Executive shall have all the powers delegated to the other directors and shall be able to exercise those powers in the place of that director. Further, in the event of any dispute or doubt as to the delegated powers of any other director, the Chief Executive shall have the authority to determine which director is to exercise that power.

8.4 Notwithstanding anything in this Part, the Chief Executive and directors shall be authorised to take decisions where the matter is routine or urgent. In such cases, the director wishing to take such action or the Chief Executive (as the case may be) shall notify the Leader of the Council, the Executive Member with portfolio responsibility for the matter to which the decision relates, and the Leader of the Opposition of any such action.

8.5 If the decision taken under paragraph 8.4 above concerns an executive function the exercise of authority under this provision shall be reported to the next available meeting of the Executive and where the decision is a key decision which has not been included in the Forward Plan, the provisions of paragraph 100 of the Access to Information Procedure Rules shall apply.

8.6 For the purposes of paragraph 8.4 above, a matter is urgent if, in the reasonable opinion of the proposed decision taker, to delay the decision relating to it would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant decision making body in sufficient time to take the decision.

8.7 Delegations to officers below Corporate Director level are contained in Appendix 3. Where those powers may only be exercised with the authorisation of the relevant Corporate Director the Corporate Director shall provide to the Corporate Director of

Resources a list of the general authorisations they have given and of any specific authorisations and the Corporate Director of Resources shall cause these lists to be made publicly available. Corporate Director are responsible for updating the Monitoring Officer promptly of any changes in their authorisations. In all cases the Corporate Director will be able to exercise the powers delegated to officers within his or her department.

- 8.8 Corporate Director may designate a deputy from amongst the Service Directors in their department who shall have all the powers of the Corporate Director in their absence which do not relate just to a specific service. Corporate Directors shall be responsible for informing the Monitoring Officer of their designated deputy from time to time.
- 8.9 A list of designated proper officers for the purposes of legislation is contained in Appendix 4.