

Appendix 1



## Part 3 - Delegations

## **Introduction**

This part of the Constitution sets out the Council's terms of reference and delegation arrangements in accordance with the Local Government Act 2000 and relevant statutory regulations. The decision-making framework consists of three elements:

- **Functions reserved to the Council**, and more minor functions which will usually be carried out by officers under delegated authority on behalf of the Council;
- Functions carried out by **Regulatory Committees** and by delegation to officers, in accordance with the Section 101 of the Local Government Act 1972;
- All other functions are known as '**Executive functions**' and are carried out by the Cabinet, member of the Cabinet, a Committee of Cabinet Members, an officer or a joint arrangement with another authority.

Decisions taken by the Executive may not be over-ruled by the Council, provided they are within the Council's approved major Policy Framework and Budgetary provision. They may, however, be studied by the Scrutiny committee/commission which has a specific responsibility to scrutinise and, in occasional circumstances, call-in a decision for re-consideration by the Executive.

In the case of the Regulatory Committees, most of the issues dealt with are applications for licences, planning permissions, and registration matters, and their decisions are not subjected to a call-in procedure except in relation to planning where a matter can be referred to the Planning Review Committee to determine. In relation to any decision taken by a Committee (other than in relation to the determination of planning matters) the Council can refer the decision back to the Committee.

All decisions made are subject to the rights of third parties acquired as a result of those decisions. For example, the Council would be bound by the acceptance of a tender under delegated powers or a planning permission where the decision notice has been issued.

An officer's decision shall, where matters of substantial importance are involved, be reported to the Executive or to the next ordinary meeting of the appropriate committee. Should Members wish to question any specific delegation exercised by any officer, then they should contact the Leader who may refer the matter to the Chief Executive or the Director of Governance. If they are unable to resolve the matter it will be referred to the Cabinet or a Committee, depending upon the nature of the issue, where the Member questioning the exercise of the delegation will state their case.

Where any delegation under this part of the Constitution refers to specific legislation or regulations, it includes a reference to that legislation or those regulations as re-enacted, consolidated, modified or amended.

## Section 1 – Functions Reserved to the Council

### 1.1 Policy Functions

- 1.1.1 To make, amend, revoke or re-enact bye-laws, and to promote or oppose local or personal Bills.
- 1.1.2 To make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.
- 1.1.3 To determine matters that are the responsibility of the Executive, which are outside the agreed policy framework or budget and are not covered by one of the exemptions listed in the Executive Procedure Rules, set out in Part 4 of this Constitution.
- 1.1.4 To adopt, approve and revoke the following plans and strategies, which comprise the Council's Major Policy Framework:

#### Plans reserved to Council by Law

- (a) Safer Peterborough Partnership Plan (to include Youth Justice Plan and Reduced Reoffending Strategy<sup>1</sup>)
- (b) Local Transport Plan (to include Long Term Transport Plan<sup>2</sup>)
- (c) Plans and strategies which together comprise the Local Development Framework
- (d) Community Infrastructure Levy (CIL)
- (e) Statement of Licensing Policy under s5 of the Licensing Act 2003
- (f) Licensing Authority Policy Statement under s349 of the Gambling Act 2005
- (g) Pay Policy Statement

#### Plans required by statute and included by local choice

- (a) Neighbourhood development plans and neighbourhood development orders
- (b) Joint Municipal Waste Management Strategy
- (c) Flood Risk Management Strategy
- (d) Housing Strategy (to include the Housing Strategic Tenancy Policy<sup>3</sup>)
- (e) Homelessness Strategy
- (f) The Housing Register Allocations Policy

#### Plans included by local choice

- (a) Corporate Priorities
- (b) Trees and Woodlands Strategy
- (c) Culture Strategy
- (d) Biodiversity Strategy
- (e) Home of Environment Capital Major Policy 2010 and Environment Capital Action Plan

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<sup>1</sup> Reduced Reoffending Strategy is required by law and is included in framework by local choice

<sup>2</sup> Long Term Transport Plan is included by local choice

<sup>3</sup> Housing Strategic Tenancy Policy is required by law and Housing Strategy is included by local choice

- (f) Any other plan or strategy that must be approved by the authority and submitted to the Secretary of State or a Minister of the Crown for approval
- 1.1.5 To instigate major reviews of policy and co-ordinate the work of the Executive and Committees.
- 1.1.6 To manage and review the performance of the Council within stated policy.
- 1.2 Budget and Financial Functions**
- 1.2.1 To approve the Annual Budget, including:
  - (a) the budget strategy for both revenue and capital spending;
  - (b) capital and revenue estimates in accordance with the budget strategy;
  - (c) the annual review of fees and charges;
  - (d) the annual council tax and related matters in respect of the tax base, Collection Fund and Council tax subsidy.
- 1.2.2 To approve the Medium Term Financial Strategy, including
  - (a) the treasury management strategy;
  - (b) the capital strategy;
  - (c) the Asset Management Plan.
- 1.2.3 To determine statutory borrowing limits and the Council's Investment strategy.
- 1.2.4 To determine the choice of the Council's main bank.
- 1.2.5 To determine matters relating to local government pensions, where these are not delegated to officers, in accordance with regulations made under the Superannuation Act 1972.
- 1.2.6 To make proper arrangements for the administration of the Council's financial affairs, where these are not delegated to officers, in accordance with section 151 of the Local Government Act 1972.
- 1.2.7 To approve the Statement of Accounts, in accordance with Regulation 8 of the Accounts and Audit Regulations 1996.
- 1.3 Constitutional, Operational and Ceremonial Functions**
- 1.3.1 To adopt and review this Constitution and determine any changes to it (other than consequential changes which may be made by the Monitoring Officer).
- 1.3.2 To determine the scheme of payment of allowances to Members.
- 1.3.3 To make any appointments to other bodies not approved through delegated authority.
- 1.3.4 To make appointments to Committees, other than those covered by other delegations.
- 1.3.5 To appoint the Leader.
- 1.3.6 To appoint the Mayor and Deputy Mayor.

- 1.3.7 To appoint, discipline or dismiss the Chief Executive.
- 1.3.8 To appoint 'proper officers' for particular purposes including the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.
- 1.3.9 To confer the title of Honorary Alderman, or award the Freedom of the City.
- 1.3.10 To adopt the Petitions Scheme and determine any changes to it.

#### **1.4 Election and Parish Functions**

- 1.4.1 To appoint an electoral registration officer.
- 1.4.2 To appoint a returning officer for local government elections.
- 1.4.3 To determine functions in relation to parishes and Parish Councils.
- 1.4.4 To conduct reviews of parishing arrangements, including dissolving small Parish Councils, making orders for (or dissolving or separating) groups of parishes or creating parishes, or changing the name of a parish.
- 1.4.5 To divide constituencies and electoral divisions into polling districts.
- 1.4.6 To pay expenses properly incurred by electoral registration officers.
- 1.4.7 To fill electoral vacancies in the event of there being insufficient nominations.
- 1.4.8 To determine whether to submit an application to the Secretary of State for a pilot electoral scheme for local elections.
- 1.4.9 To determine any proposals to change the name of the Council.

#### **1.5 Delegations to Officers**

- 1.5.1 The Chief Executive is authorised to undertake functions in respect of holding elections, to assign officers in relation to requisitions of the electoral registration officer and to appoint deputy electoral registration officers.
- 1.5.2 The Chief Executive is required to provide assistance at European Parliamentary elections.
- 1.5.3 The Chief Executive is authorised to:
  - (a) declare a vacancy in office in certain cases;
  - (b) give public notice of a casual vacancy;
  - (c) make temporary appointments to Parish Councils.
- 1.5.4 The Chief Executive is authorised to make payments or provide other benefits, in consultation with the Cabinet, and either the Scrutiny Committees or Council (as appropriate), in cases of maladministration.

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- 1.5.5 The Director of Governance is authorised to determine fees and conditions for the supply of copies of, or extracts from, electoral documents.
- 1.5.6 The Director of Governance is authorised to make appointments to partnerships and outside organisations where they have been agreed in accordance with the Council's approved procedure set out at Part 4 of this Constitution.