

Responsibility for Functions

PREFACE

This part of the Constitution explains who is responsible for the various functions of the Council.

The Council is the supreme decision making body and may, with some exceptions, exercise any of the functions vested in the Council by law. It may also delegate many of those functions to a Committee, a Sub-committee or Officer. In this Part, the term “full Council” refers to the Council exercising functions itself, as opposed to acting through Committees, Sub-committees or Officers.

1. FUNCTIONS OF FULL COUNCIL

Only the full Council will exercise the following functions:

- 1.1 Approving the strategic financing of the Council, upon recommendations of the Policy and Resources Committee, including:
 - 1.1.1 Determination of the financial strategy;
 - 1.1.2 Approval of the Budget;
 - 1.1.3 Approval of the capital programme;
 - 1.1.4 Setting the Council Tax;
 - 1.1.5 Determination of fees and charges where authority to set these has not been delegated; and
 - 1.1.6 Determination of borrowing limits.
- 1.2 Adopting and changing the Constitution, except where otherwise provided in the Constitution or by resolution of the Council.
- 1.3 Approving and adopting the Policy Framework (as described in Article 4).
- 1.4 Approving matters which require a decision that represents a significant departure from any existing strategy, policy or budget previously agreed by the Council. This excludes determining planning applications that do not accord with the provisions of the development plan.
- 1.5 Receiving reports and recommendations from the Health Overview and Scrutiny Committee and any other Committee.
- 1.6 All policy matters and new proposals relating to significant partnerships with external agencies and local authority companies.
- 1.7 Agreeing and amending the terms of reference of Committees, deciding on their composition and making appointments to them.

- 1.8 Appointing representatives to outside bodies (including school governing bodies) where an urgent decision is required before the next scheduled General Functions Committee, unless that appointment has been delegated by the Council.
- 1.9 Delegating significant functions to other local authorities or their executives and deciding whether or not to accept such a delegation from another local authority.
- 1.10 Adopting a Members Allowance Scheme.
- 1.11 Changing the name of the Borough.
- 1.12 Electing Chairmen and Vice-Chairmen of Committees.
- 1.13 Conferring the title of Freeman of the Borough.
- 1.14 Confirming the appointment or dismissal of the Head of Paid Service.
- 1.15 Determining any delegation to Officers which does not fall within the scope or terms of reference of any Committee.
- 1.16 Making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills.
- 1.17 All other matters which, by law, must be reserved to the Council.
- 1.18 Electing the Leader of the Council; and electing the Mayor.
- 1.19 Appointing the Lead Member for Children's Services, who will have the responsibilities as set out in the Role Profile for the Lead Member for Children's Services published on the Council's website which will reflect relevant Regulations and Government guidance.
- 1.20 Approval of annual pay policy statement.

2. **FUNCTIONS DELEGATED TO COMMITTEES**

Other functions of the Council are delegated to Committees in accordance with the Terms of Reference set out in Annex A.

3. **OFFICER DELEGATIONS**

The functions delegated to Officers are set out in Annex B. Where a function has been delegated to an officer(s) ("delegated officers"), the decision may be taken in the name of (but not necessarily personally by) such delegated officer(s) by another officer(s) in accordance with arrangements made from time to time by such delegated officer(s) for this purpose.

4. **INTERPRETATION**

In this part of the Constitution:

"the 2000 Act" means the Local Government Act, 2000;

“the 2000 Regulations” means the Local Authorities (Functions and Responsibilities) (England) Regulations, 2000;

“the 2007 Act” means the Local Government and Public Involvement in Health Act, 2007;

“the 1972 Act” means the Local Government Act, 1972.

5 LIMITATIONS ON DELEGATION TO COUNCIL COMMITTEES AND SUB-COMMITTEES

5.1 Committees and Sub-Committees of the Council (or the Council acting as Licensing Authority) are authorised to discharge all functions within their terms of reference with the exception of:

- Those matters referred to in the above list
- Decisions reserved to the Council meeting in Article 4 of the Constitution

5.2 The Area Planning Committees can take decisions within their terms of reference provided they are not within the list of matters reserved to the Planning Committee

5.3 Area Committees may take decisions within their terms of reference provided they are not matters which are the responsibility of the Licensing Committee or Licensing Sub-Committee, or contrary to Council policy (or contrary to the Statement of Licensing Policy) or outside budget.

6 MEMBERS' RIGHTS TO REFER MATTERS TO PARENT BODY

6.1 Any Committee listed in the following schedule may decide to report on any matter to Council and any Sub-Committee may report to its parent committee. In such cases the decision is reached by the usual process, such as a majority vote. The report may make recommendations or seek instructions.

6.2 A Chairman of an Area and/or Area Planning Committee may refer any item that it considers with a recommendation to the relevant committee within whose Terms of reference it falls, by indicating immediately after the decision is taken that they require the decision to be referred up. The report on the referral to Full Council or the relevant Committee to which the Committee or Sub-Committee reports shall set out the reasons given for the referral.

6.3 A Chairman of an Area Committee may refer applications to the Area Committee Budget to the relevant Theme Committee (Environment Committee for environment related schemes or Community Leadership Committee for community related projects). The report to the relevant Committee to which the Area Committee refers the application shall set out the reasons given for the referral.

6.4 Subject to the exceptions set out below, a specified number of Members of a Committee or Sub-Committee (see the table below) may require that any decision of the Committee or Sub-Committee is referred up to the next practicable meeting of Full Council or the relevant Committee to which the Committee or Sub-Committee reports, by indicating immediately after the decision is taken that they

require the decision to be referred up. The report to Full Council or the relevant Committee to which the Committee or Sub-Committee reports on the referral shall set out the reasons given for the referral.

| Committee/Sub-Committee | No. of members required to support a referral | Council / reporting committee |
|--------------------------------|--|---|
| Planning | 3 | Council |
| Area Planning Committees | 2 | Planning Committee (if within the Terms of Reference of the Planning Committee) |
| Area Committees | 2 | Environment or relevant Committee |
| General Functions Committee | 3 | The Council |
| All Other Committees | 3 (where the Membership is less than 9) and 4 (where the Membership 9 or more) | Council |

6.4 In such a case:-

6.4.1 for committees, the action the committee had proposed to take will be recommended to the Council;

6.4.2 for sub-committees, the action the sub-committee had proposed to take will be recommended to the committee;

6.4.3 no action shall be taken on the matter in the meantime.

Exceptions

6.5 The first exception is that a report may not be referred up unless it is key. A key decision is one which:

- will result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- is significant in terms of its effects on communities living or working in an area comprising two or more wards

This exception does not apply to referrals from Area Planning Committees to the Planning Committee.

6.6 The second exception is that no matter that has been the subject of a decision by the Council or, in the case of Sub-Committees, the parent Committee in the previous six months may be referred up.

- 6.7 The third exception is Area Planning Committees, where no matter relating to the regulatory and enforcement functions of the Council relating to town and country planning and the control of buildings and new streets may be referred to the Planning Committee unless it falls within the terms of reference of the Planning Committee.
- 6.8 The fourth exception is the Planning Committee, where no matter relating to town and country planning may be referred up to the Council meeting except where required by law. The Planning Committee may only refer up non-planning matters.
- 6.9 The fifth exception is the Pension Fund Committee.
- 6.10 The sixth exception is that a report may not be referred up if it is urgent. An urgent report is one which sets out why a decision is required before the next meeting of the Council, and which the Chairman of the Committee and the Chief Executive have agreed is urgent.
- 6.11 The seventh exception is that Members Items may not be referred to the parent committee or Council.
- 6.12 Section 6 shall not apply to the Licensing Committee, the Licensing Sub-Committee, the Appeals Committee and Chief Officer Appointment Panel.

7. URGENCY PROVISIONS

- 7.1 If a decision on an issue is required as a matter of urgency and if time allows under the provisions of the Access to Information Rules then a Committee comprising of the Leader, the Deputy Leader, and the Leader of the Opposition will be called. The decision may be within the terms of reference of another committee, but this will not invalidate the decision as the arrangements to discharge the function in cases of urgency is through a committee comprising the three specified members. The Committee must consult with the Chairman of the relevant Committee.
- 7.2 In cases where a decision on the issue is so urgent that there is insufficient time to call a committee, then arrangements can be made to discharge the function through the Chief Executive in consultation with the Leader or the Chairman of the relevant Committee. The decision must be reported back to the parent committee at its next meeting or if it is a general Council matter then it should be reported to the next meeting of full Council.

8 JOINT ARRANGEMENTS

- 8.1 The following are the joint arrangements for the discharge of functions which are the responsibility of the Council:
- London Boroughs Grants Scheme under Section 48 Local Government Act 1985.
 - London Councils Transport and Environment Committee Agreement dated 13 December 2001.
 - Association of London Government agreement dated 1 April 2000.