

**PART 3                    RESPONSIBILITY FOR FUNCTIONS**

**SECTION 2: EXECUTIVE**

## **1. Executive functions of the Leader**

- 1.1 The Leader is responsible for arranging for the exercise of all executive functions and may by way of written notice delegate Executive functions to:
  - (a) Cabinet
  - (b) a Committee;
  - (c) Cabinet Members
  - (d) Officers
  - (e) Joint Committees
- 1.2 The Leader may exercise any Executive function personally provided notice is given to the Proper Officer.
- 1.3 The Leader will give notice in writing, duly signed and dated, to the Proper Officer as to the exercise of Executive functions and will submit a fresh notice on each occasion that those delegations are amended.
- 1.4 Executive functions may not be exercised by the Leader or individual Cabinet Members until written notice has been received by the Proper Officer. The Proper Officer will maintain a record of Leader delegations
- 1.5 The following general functions are a list of functions which the Leader may delegate to Cabinet. The Leader may upon giving written notice to the Proper Officer add other Executive functions to this list.

## **2. Functions of Cabinet**

### *Policy matters*

- 2.1 To formulate the Council's overall policy objectives and priorities and to recommend them to Full Council for approval where they fall within the budget and/or the Policy Framework.
- 2.2 To determine the Council's strategy and programme in relation to the Policy Framework and/or the Budget set by Full Council.
- 2.3 To determine all substantial policy matters and strategic decisions and those minor matters which are referred by the Leader at the request of a Cabinet Member as being particularly contentious.
- 2.4 To determine the Council's policy, strategy and programme in relation to the area and in respect of all Executive matters.
- 2.5 To co-ordinate the statutory functions and obligations of the Council with respect to equality of opportunity and non-discrimination, including its function as an employer save where these concern non-executive functions
- 2.6 To promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.

### 2.6a To approve those policies allocated to Cabinet by way of the Policy & Strategy Development Framework.

### *Other matters*

- 2.7 To allocate and control financial and land and property resources, to determine priorities in the use of these resources, and take any other action necessary to achieve those objectives.
- 2.8 To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the Council and to have responsibility for land and property used for operational purposes. Disposals and acquisitions of land, buildings or other property interest in excess of £1,000,000 shall be reserved to Cabinet.
- 2.9 To exercise control over the Council's revenue and capital budgets (including the housing revenue account).
- 2.10 To oversee and take responsibility for effective joint work with partner agencies.
- 2.11 To approve funding for voluntary organisations.
- 2.12 To affiliate with and appoint representatives to outside bodies, where these are not specifically identified elsewhere in this constitution.

- 2.13 To consider whether the Council should give evidence before a parliamentary select committee, royal commission, Government committee or similar body.
- 2.13 To undertake those functions assigned to the Cabinet under Part 3, section 5: local choice functions.
- 2.14 To award all contracts above a total contract value of £2,000,000 and above.
- 2.15 To be responsible for all executive matters even if not expressly set out in Part 3 of this constitution.

#### *Finance*

- 2.16 To take decisions on all matters relating to the Council's finances including but not exclusively:
  - (a) budgetary control
  - (b) establishing long and short term capital and revenue programmes for all areas of service and allocations of both capital and revenue expenditure to other services
  - (c) financial planning
  - (d) operational management of insurance arrangements
  - (e) budget revisions
  - (f) considering the annual estimates of revenue expenditure and income and the Treasury Policy Statement and make recommendations to the Council on the setting of the council tax
  - (g) virements of £1 million or more on the advice of the Strategic Director of Resources.

#### *Treasury management strategy*

- 2.17 To consider the Council's treasury management strategy, making recommendations to Full Council on its content and to subsequently monitor its effectiveness taking account of appropriate expert advice

#### *Resource management*

- 2.18 To exercise the Council's functions relating to the use of the Council's resources and, where these are not non-executive functions, human resources. Such functions include:
  - (a) corporate human resources policies and procedures

- (b) corporate communication strategies.

#### *Education*

- 2.19 To exercise the Council's education functions and provision i including the formulation of the Council's future policies for recommendation to Full Council where appropriate and their co-ordination and implementation. Such functions include, but are not limited to, the following:
- (a) proposals for schemes of the fair funding of schools, including special schools.

#### *Environment*

- 2.20 To exercise the Council's functions in relation to environmental matters including the formulation of the Council's policies for referral to Full Council where appropriate and their co-ordination and implementation. Such functions include (but are not limited to) the following except to the extent that they are non-executive functions:
- (a) town planning
  - (b) environmental health
  - (c) highway engineering
  - (d) public health
  - (e) building control
  - (f) consumer protection and licensing
  - (g) traffic management and parking control
  - (h) transport planning
  - (i) waste and energy management
  - (j) cemeteries
  - (k) managing the transport fleet.
- 2.21 To encourage and promote the environmentally sustainable development and regeneration of the Borough and the health of the population through its planning, transport, economic planning, waste and energy management and environmental health policies and programmes.
- 2.22 To consider proposed planning guidance for the Borough and the development of the Local Plan

### *Housing*

- 2.23 To approve the Council's housing and homelessness strategies including the formulation and co-ordination of policies and implementation. Such functions include, but are not limited to, the following:
- (a) assessing housing need, demand and supply and developing appropriate strategies, including specific strategies for groups in need
  - (b) managing and maintaining all land and property held for the Council's housing functions.
  - (c) assessing and setting rents and other charges
  - (d) setting and varying charges for the use of garages, car parking spaces and other facilities on the Council's housing estates
- 2.24 keeping under review issues affecting non-public housing tenures in accordance with the Council's housing strategy, in pursuance with the Council's duties under current legislation

### *Leisure and cultural services*

- 2.25 Agree the Council's strategy in relation to leisure services, including the formulation and co-ordination of policies and their co-ordination and implementation. Such functions include (but are not limited to) the following:
- (a) library and information services
  - (b) arts and museum services
  - (c) providing and maintaining leisure facilities for children and young persons
  - (d) providing facilities for sports
  - (e) developing tourism opportunities and provision of tourism services
  - (f) taking responsibility for provision and upkeep of the Council's public parks, gardens, open spaces, allotments, cemeteries and burial grounds.
- 2.26 To develop strategic policies for the provision of co-ordinated, accessible and quality leisure services that reflect the multi-ethnic, social and cultural diversity of those who live, work and study within the Borough.

2.27 To plan the provision of leisure facilities whether provided by the Council or others.

*Social care and health*

2.28 To exercise the Council's functions in relation to social services including the formulation of the Council's policies and their co-ordination and implementation. Such functions include (but are not limited to) the following:

- (a) all matters within Schedule 1 of the Local Authority Social Services Act 1970 and, in particular, functions in relation to child protection, children in need, community care and mental health provision
- (b) all matters relating to the National Health Services, including the consideration and review of NHS policies in so far as they affect the borough and in particular to have responsibility for joint care planning and liaison with the appropriate health authorities.

2.29 All matters relating to public health and dental health as conferred onto the authority by virtue of the National Health Service Act 2006, the Health and Social Care Act 2012 and any subsequent legislation (but excluding functions that are the statutory responsibility of the Health and Wellbeing Board.)

**3. The following Functions may be delegated to individual Cabinet members by the Leader.**

Each Cabinet Member, as appropriate, may be delegated one or more of the following functions, within the portfolio allocated to him or her by the Leader. If a Cabinet Member is unable to act, the Leader may act on his or her behalf, or may authorise another Cabinet Member to do so. Matters delegated to individual Cabinet Members under this section give them individual decision making powers. Where any paragraph refers to 'in conjunction with' or 'in consultation with' the decision remains that of the Cabinet Member.

- 3.1 To monitor the budgets and the performance of the services allocated by the Leader.
- 3.2 Where there are implications for the Policy Framework or the Budget, to agree Officer responses to consultation papers from:
  - (a) the Government (including White and Green papers)
  - (b) the London Councils, the Greater London Authority, the Local Government Association and all other bodies.
- 3.3 To agree an appropriate response by Officers to issues raised in respect of allocated services.
- 3.4 To determine priorities in conjunction with the relevant Chief Officer (within the Policy Framework and Budget).
- 3.5 To make suggestions for policy initiatives (within the Budget and/or Policy Framework) and for amendments to the Budget and/or the Policy Framework, for agreement by the Cabinet and Full Council.
- 3.6 To recommend to the Cabinet a response to reports from the Overview and Scrutiny Board and relevant Sub-Committees in respect of the allocated services.
- 3.7 To approve an exception to the Contracts Procedure Rules set out in Part 4 of this constitution, in accordance with Rule 14(1) of those Rules.
- 3.8 To approve the commencement of the tender process, to award contracts, agree extensions of contract terms where the value of such matter is between £1,000,000 and £2,000,000 subject to consultation with the Strategic Director of Resources. (Note: Pension Committee has powers to invite tenders and award contracts for investment matters within their terms of reference)
- 3.9 To review customer satisfaction, results of consultation with stakeholders and the efficiency of service provision generally and to agree arrangements for continuous improvements to be made.
- 3.10 To consider and recommend plans in respect of the portfolio allocated.

- 3.11 To consider the needs of the allocated service for particular properties and to make recommendations to the Cabinet as appropriate.
- 3.12 To promote effective relationships and partnerships between the Council and all other bodies and agencies affecting the community.
- 3.13 To consider reports on the exercise of virement, within the Budget Framework Procedure Rules and/or Finance Procedure Rules set out in Part 4 of this constitution.
- 3.14 To consider reports on contract overspends and to report to Cabinet as necessary.
- 3.15 To consult any advisory bodies as directed by the Cabinet
- 3.16 To agree minor matters and urgent or routine policy matters
- 3.17 To consider recommendations relating to highways and traffic schemes and to make decisions relating to them.
- 3.18 To approve the decision of the Council disposing of or acquiring an interest in property or land where the disposal value or acquisition receipt is between £1,000,000 and £2,000,000.
- 3.19 To approve all in year changes to both fees and charges.
- 3.20 To approve those policies allocated to Portfolio Holders by way of the Policy & Strategy Development Framework provided that the relevant policy is

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#### **4. Portfolios to be assigned to individual Cabinet members**

The Leader is responsible for assigning portfolios to Cabinet Members. Any Cabinet Member, including the Leader, may hold more than one portfolio, although a Cabinet Member need not hold any portfolio. Suggested portfolios are as follows, although the Leader may determine the nature of any portfolio as he or she considers appropriate:

Information & Communication Technology, Procurement, Asset Management, Development Control, Building Control, Finance Procurement, Commissioning, Adult Social Care, Children & Young People's Services, Learning & Achievement, Schools for the Future, Community Engagement, Policy and Partnerships, Communications Culture & Leisure, Customer Services, Housing, Public Protection, Regeneration Strategic Planning, Environment, Highways and traffic schemes, Legal, Governance and Election Services, Community Safety, Public Health

The names of the Cabinet Members are listed on the Council's website and on a list which is available at the Town Hall reception.

## **5. Health and Wellbeing Board**

The Health and Wellbeing Board is by virtue of the provision of the Health and Social Care Act 2012 an executive committee of the Council to exercise those functions prescribed under the Health and Social Care Act 2012. In particular to:

### 5.1 Duty to encourage integrated working

- (a) To encourage organisations involved in the provision of any health or social care services in the borough to work in an integrated manner.
- (b) To advise, support and encourage (where appropriate) section 75 arrangements under the National Health Service Act 2006 in connection with the provision of health services.
- (c) To encourage all those involved in the provision of health-related services to work with the Board.
- (d) To arrange and encourage any persons involved in the provision of health-related services to work in cooperation with the Health and Wellbeing Board.
- (e) To exercise those functions conferred on the Council by virtue of the Local Government and Public Involvement in Health Act 2007, namely
  - (i) Preparation of a Joint Strategic Needs Assessment, and;
  - (ii) Preparation of a Health and Wellbeing Strategy
- (f) To inform the Council on whether or not the Council is meeting its duties under section 116B of the Local Government and Public Involvement in Health Act 2007 (duty to have regard for strategies).
- (g) If appropriate, to make arrangements for its functions to be discharged jointly with the Board of another authority and/or by joint sub-committees.
- (h) To request, where necessary, information from any organisation represented on the Board that relates to the function of the organisation from which the information is requested and that is for the purpose of enabling or assisting the Board in fulfilling its functions.

### *Health Protection*

- 5.2 To provide assistance and guidance to the Director of Public Health to enable them to fulfil their function with regard to health protection and emergency planning as prescribed in section 12 of the Health and Social Care Act 2012

## **6. Joint working delegations**

Full Council and the Executive have established the following joint arrangements under section 101(5) of the Local Government Act 1972:

- (a) London Councils
- (b) Shared Services Joint Committee (oneSource)

The functions delegated to each of these joint committees are set out below:

### **London Councils Committees**

#### *London Councils Leaders Committee*

- 6.1 This comprises one member from each of the 33 London local authorities.
- 6.2 Its functions are set out in full in Schedule 2 of the Association of London Government Agreement dated 13 December 2001 (as amended). In summary, the Joint Committee is authorised to deal with the following matters:
  - (a) consulting on common interests of London local authorities, discussing local government matters and providing forums for such discussion
  - (b) representing the interests of London local authorities to other bodies, including national and local government, Parliament and the European Union
  - (c) formulating policies for the development of democratic and effectively managed local government
  - (d) appointing representatives or staff to serve on any other body
  - (e) representing the interests of London local authorities as employers
  - (f) disseminating relevant information to London local authorities
  - (g) providing information to the public and other bodies on London Councils policies and local government issues relevant to London
  - (h) acting as the regional body of the Local Government Association.

#### **London Councils have the following other committees:**

##### *Transport and Environment Committee*

- 6.3 This committee comprises one member from each of the 33 London local authorities and a member from Transport for London (which is part of the Greater London Authority).

- 6.4 Its functions are set out in full in Schedule 2 of the Association of London Government Transport and Environment Committee Agreement dated 13 December 2001 (as amended). In summary, the committee is authorised to deal with the following matters:
- (a) undertaking various matters related to parking adjudicators, including making appointments, providing accommodation and administrative staff, determining the places at which adjudicators will sit and making an annual report on adjudicators' discharge of their functions
  - (b) determining penalty charge levels and fees and discounts for early payment
  - (c) publishing and updating the Code of Practice for Parking in London co-ordinating and maintaining vehicle removal and clamping operations
  - (d) establishing and maintaining a communications and control service to deal with vehicle removals
  - (e) overseeing the London lorry ban
  - (f) overseeing the London taxicard scheme.

*The London Grants Committee*

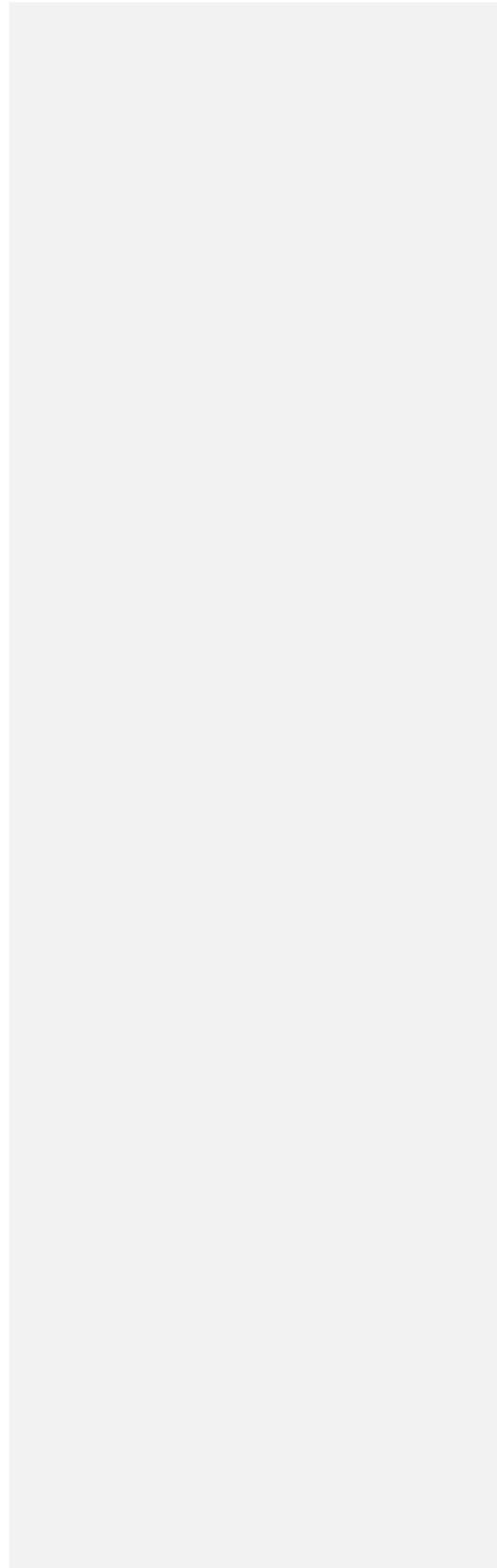
- 6.5 This committee comprises one member from each of the 33 London local authorities.
- 6.6 Its functions are:
- (a) To make grants to voluntary organisation benefiting more than one London borough.
  - (b) To consider and review the needs of London in relation to the grants scheme.
  - (c) To recommend an annual budget to the London Councils which, once approved, must be agreed to by a two-thirds majority of the London local authorities before it can be binding on all London local authorities.

**OneSource Joint Committee**

- 6.7 This is a committee of this Council and the London Borough of Newham, with a membership of 2 councillors from the executive of Havering and Newham Councils. The committee's functions are to control and co-ordinate the back-office functions of both Councils, in the case of Havering these will be:
- (a) Exchequer Services

(b) Legal Services

(c) Democratic Services



## **7. Delegation of Functions to another Local Authority**

7.1 The Council has delegated under Section 101(1) (b) of the Local Government Act 1972, Section 19 of the Local Government Act 2000 and Regulation 7 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, the following functions to Birmingham City Council:

- (a) Enforcement of Parts III and IV of the Consumer Credit Act 1974, and
- (b) the enforcement functions and powers under Parts XI and XII of the Consumer Credit Act 1974, and
- (c) the power of prosecution under section 222 of the Local Government Act 1972

All in connection with money-lending or the activities of money lenders and/or their agents and associates, and the laundering of the proceeds of illegal money-lending.