

## **PART 2 – RESPONSIBILITY FOR DECISIONS**

### **1 INTRODUCTION**

- 1.1 Under the legislation which requires the Council to have a Scheme of Executive Arrangements all the functions of the Council are the responsibility of the Executive unless regulations issued by the Secretary of State provide otherwise. Such regulations have been issued and in very broad terms they provide that the following shall not be the responsibility of the Executive:-
- the final approval of those documents which constitute the Council's policy framework
  - the final approval of the budget
  - many of the Council's regulatory and licensing functions
  - functions relating to the employment of staff
- 1.2 The Scheme of Executive Arrangements adopted by the Council provide that, subject to any express provision set out in the Constitution, the Leader may allocate responsibility for Executive functions to the Executive, a Committee of the Executive, individual Members of the Executive or an officer. As regards non-Executive functions, subject to a very limited number of decisions which are required to be taken by Full Council, the Council may allocate responsibility for functions to a Committee, a sub-Committee or an officer (but not to individual Members). As regards both Executive and non-Executive functions they may be discharged jointly with another local authority or by another local authority.
- 1.3 The Executive Arrangements put in place by the Council includes the Scheme of Delegation to officers which encompasses many Executive and non-Executive functions.

### **2 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

- 2.1 The following table shows the allocation of responsibility in Bracknell Forest, for the local choice functions.

<b>Functions</b>	<b>Responsible Body</b>	<b>Delegation of Functions</b>
1 All functions under Local Act legislation, other than the following Sections of the Berkshire Act 1986:  Section 39 – Defective Electrical Installations  Section 40 – Fire Alarm Systems	Executive  Licensing and Safety Committee  Licensing and Safety Committee	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation.

<b>Functions</b>	<b>Responsible Body</b>	<b>Delegation of Functions</b>
Section 43 – Stacks of Inflammable Substances	Licensing and Safety Committee	
2 Arrangements under Section 20 of the Police Act 1996	Council	None
3 Appointment to Police Authorities	Council	None
4 Functions relating to contaminated land	Executive	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
5 Functions relating to control of pollution or management of air quality	Executive	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
6 Service of Abatement Notice in respect of Statutory Nuisance	Executive	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
7 Inspection of area to detect statutory nuisance	Executive	Operational decisions are delegated to Officers in accordance with Scheme of Delegation
8 Investigation of any complaint of any statutory nuisance	Executive	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
9 Passing of Resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Borough.	Council	On the recommendation of the Licensing and Safety Committee
10 Obtaining of information under Sections 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: <ul style="list-style-type: none"> <li>• Where required, for the discharge of Executive Functions</li> <li>• Where required, for discharge of non- Executive functions</li> </ul>	Executive Council	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation

<b>Functions</b>	<b>Responsible Body</b>	<b>Delegation of Functions</b>
11 Agreement for the execution of Highway works	Executive	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
12 Appointments and/or revocation of appointments to external offices and bodies: <ul style="list-style-type: none"> <li>• In connection with functions which are the sole responsibility of the Executive</li> </ul> In respect of functions which are not the sole responsibility of the Executive	Executive Council	- A Committee will be established to appoint LEA Governors
13 Determination of an appeal against any decision by, or on behalf of, the Authority	Council and/or Appeals Committee	Appointment of Appeal Panels and Review Boards and general arrangements dealing with appeals is delegated to Officers in accordance with the Scheme of Delegation
14 Appointment of Review Boards	Council	
15 Making arrangements in respect of school exclusion and admission appeals	Council	
16 Adoption or approval of plans and strategies which do not form part of the Council's Budget and Policy Framework	Executive	None
17 Functions in relation to local area agreements.	Executive	Steps up to approval of draft LAA for submission to the Secretary of State.

### **3 FUNCTIONS OF THE COUNCIL**

3.1 Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the Budget 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;
- (d) appointing the Leader of the Council;

- (e) agreeing and/or amending the terms of reference for Regulatory Committees, the Overview and Scrutiny Commission and the Standards Committee, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (g) approving or amending an allowances scheme for Members under part 6 of this Constitution.
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting, or opposing, the making of local legislation or personal Bills;
- (k) all other matters which, by law, must be reserved to Council.

## **Meanings**

- (a) **Policy Framework** - The Policy Framework means the following Plans and Strategies:
  - Adult Learning Plan;
  - Children & Young People's Plan;
  - Sustainable Community Plan;
  - Corporate Plan;
  - Food Law Enforcement Plan;
  - Housing Strategy;
  - Development Plan;
  - Local Transport Plan;
  - Safer Communities Strategy;
  - Youth Justice Plan; and
  - Such other plans or strategies as may be specified by the Council as part of the Policy Framework from time to time.
- (b) **Budget** - The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council Tax, decisions relating to the control of the Council's borrowing requirement, the control of its Capital Expenditure and the setting of virement limits.
- (c) **Housing Land Transfer** - Housing Land Transfer means the approval, or adoption of, applications (whether in draft form or not) to the Secretary of State for approval of

a Programme of Disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993, or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

#### **4 RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS**

<b>Committee</b>	<b>Functions</b>	<b>Delegation of Functions</b>
Planning and Highways	<p>1. <u>Planning and Conservation</u> Functions relating to town and country planning and development control, as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (the Functions Regulations), including powers relating to the preservation of trees and the protection of important hedgerows.</p> <p>2. <u>Commons Registration</u> The registration of common land or town and village greens and to register the variation of rights of common, as set out in Schedule 1 to the Functions Regulations. (See above)</p> <p>3. <u>Highways Use and Regulation</u> The exercise of powers relating to the regulation of the use of highways, as set out in Schedule 1 to the Functions Regulations. (See above)</p> <p>4. <u>Public Rights of Way</u> The exercise of powers relating to public rights of way, as set out in Schedule 1 to the Functions Regulations. (See above)</p>	Most operational aspects fall to be dealt with by Officers under the Scheme of Delegation.

Committee	Functions	Delegation of Functions
Licensing and Safety Committee	<p>1. <u>Taxi, Gaming, Entertainment, Food and Miscellaneous Licensing</u>            Functions relating to licensing and registration, as set out in Schedule 1 to the Functions Regulations. (See above)</p> <p>2. <u>Health and Safety</u>            Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as Employer.</p> <p>3. <u>Licensing Act 2003</u>            To act as the Licensing Committee for the purposes of the Licensing Act 2003 and to discharge all the functions required to be discharged by a Licensing Committee, including the appointment of licensing sub-committees (Panels) pursuant to Section 9 of the Licensing Act 2003.</p>	Most operational aspects fall to be dealt with by Officers under the Scheme of Delegation.
Employment Committee	<p>To consider appeals against dismissal by employees of the Council.</p> <p>Excepting human resource policies, to determine all matters relating to the employment or dismissal of staff which do not fall to be dealt with by officers under the Scheme of Delegation.</p> <p>To formulate all human resource policies, including the matters set out below, and to make appropriate recommendations to the Council.</p> <p>(i) Scheme of Remuneration of Employees</p> <p>(ii) Performance Appraisal Policy of Staff</p>	<p>1. Staffing matters generally are dealt with by officers under the Scheme of Delegation.</p> <p>2. A sub-committee will be appointed with power to vary human resource policies for school-based staff following consultation through the approved consultation processes.</p>

	<ul style="list-style-type: none"> <li>(iii) Training Policy, including Management and Staff Development Activities</li> <li>(iv) Conditions of Employment</li> <li>(v) Employment Related Policies and Procedures</li> <li>(vi) Retirement and Redundancy Schemes</li> <li>(vii) Superannuation and Pensions</li> <li>(viii) Consultation Policy and Procedures in Respect of Industrial Relations</li> </ul>	
Appeals Committee	<p>To determine appeals against officer decisions for refusal of:</p> <ul style="list-style-type: none"> <li>• Discretionary Education Grants</li> <li>• Home to School Transport</li> </ul>	
Education Employment Sub-Committee	<p>To vary all human resources policies of the Council for School based staff including the matters set out below:-</p> <ul style="list-style-type: none"> <li>a. scheme of remuneration of employees;</li> <li>b. performance appraisal policy;</li> <li>c. training policy, including management and staff development</li> <li>d. conditions of employment;</li> <li>e. employment related policies and procedures;</li> <li>f. retirement and redundancy schemes;</li> <li>g. superannuation and pensions;</li> <li>h. staff consultation policies in respect of industrial relation.</li> </ul>	Most operational aspects fall to be dealt with by Officers under the Scheme of Delegation

Education Governor Appointments Committee	<p>The Education Governor Appointments Committee is authorised to appoint Local Education Authority representatives to serve on school governing bodies within the Borough</p>	
Governance and Audit Committee	<p>2.1 <u>External Audit</u></p> <ul style="list-style-type: none"> <li>• To consider the external auditors' annual letter and to determine what appropriate measures should be proposed in relation to the issues raised and to monitor the implementation of such measures</li> <li>• To approve the external audit plan</li> <li>• To comment on the scope and depth of the external audit work and to ensure it gives value for money and to make recommendations as appropriate</li> <li>• To consider any other reports by the external auditors</li> <li>• To liaise with the Audit Commission over the appointment of the Council's external auditor</li> <li>• To identify areas of potential work that may be appropriate for the external auditors</li> </ul> <p>2.2 <u>Internal Audit</u></p> <ul style="list-style-type: none"> <li>• Delivery of an adequate and effective system of internal audit</li> <li>• To consider the Head of Audit and Risk Management's annual audit opinion and the level of assurance given over the Council's corporate governance arrangements</li> <li>• To consider regular reports summarising internal audit activity and make recommendations as appropriate</li> <li>• To consider regular reports on the performance of internal audit provider as presented by the Head of Audit and Risk Management</li> <li>• To consider and approve the Internal Audit Strategy</li> <li>• To approve the annual internal audit plan, ensuring that there is sufficient and appropriate coverage</li> <li>• To consider any other reports the Chief Internal Auditor may make to the Committee.</li> </ul>	<p>The management of the internal audit service is delegated to the S151 officer.</p>

	<p><b>2.3 <u>Risk Management</u></b></p> <ul style="list-style-type: none"> <li>• To monitor the adequacy of procedures and processes in place to manage risk</li> <li>• To seek assurances that action is being taken on risk related issues</li> <li>• To ensure that assurance statements, including the Annual Governance Statement, properly reflect the risk environment</li> </ul> <p><b>2.4 <u>Governance</u></b></p> <ul style="list-style-type: none"> <li>• To monitor the adequacy of arrangements in place to meet best practice standards for good governance</li> <li>• To consider and approve the Annual Governance Statement</li> <li>• To ensure that appropriate action is taken with respect to the issues raised in the Annual Governance Statement</li> <li>• To review any issues of governance referred to the Committee</li> <li>• To review and monitor the Anti-Fraud and Corruption Policy</li> <li>• Review procedures for complaints</li> </ul> <p><b>2.5 <u>Accounts</u></b></p> <ul style="list-style-type: none"> <li>• To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council</li> <li>• To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</li> </ul>	
Licensing Panel	<ol style="list-style-type: none"> <li>1. To determine appeals in relation to licence applications (with the exception of licence applications made under the Licensing Act 2003) where there is a new statutory right of appeal.</li> <li>2. To determine applications and other matters (with the exception of functions under the Licensing Act 2003), where the Licensing and Safety Committee has determined</li> </ol>	

	that a person has a right of hearing before the Panel or the Director of Environment and Leisure has decided that the matter shall be referred to the Panel for determination.	
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All other functions, listed in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations (as amended), are the responsibility of the Council and shall be dealt with by the Council, except where those functions have been delegated to Officers under the Scheme of Delegation.

Committee	Functions	Delegation of Functions
Standards Committee	<ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by the Members and co-opted Members of the Council.</li> <li>2. To assist Members and co-opted Members of the Council to observe the Codes of Conduct.</li> <li>3. To advise the Council on the adoption and revision of its Codes of Conduct.</li> <li>4. To monitor the operation of the Council's Codes of Conduct.</li> <li>5. To advise, train or arrange to train Members and co-opted Members of the Council on matters relating to their Codes of Conduct.</li> <li>6. To advise the Council on the adoption of appropriate protocols governing the ethical standards of the Members and Officers of the Council.</li> <li>7. To perform the other functions of a Standards Committee under the Local Government Act 2000 (or any amending or replacement legislation), and any regulations made there under.</li> <li>8. To consider and determine allegations of misconduct against Members of the Council, meaning a breach of the Council's Code of Conduct or of any code or protocol adopted by the Council, and to determine any sanctions it deems appropriate in the event of misconduct being found.</li> <li>9. To be responsible for liaison between</li> </ol>	The functions of the Council under sections 57A and 57B of the Local Government Act 2000 and under regulations 17 and 18 of the Standards Committee (England) Regulations 2008 are delegated to sub-committees comprising two independent members (one of whom must be the Chairman of the sub-committee), two members of the Council (one from each political group) and one parish councillor.

	<p>the Council and external agencies, in particular, the External Auditor and the Local Government Ombudsman, in connection with matters within the Terms of Reference of the Committee.</p>	
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## **5. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

- 5.1 Unless the Constitution or the law requires otherwise, the Executive is responsible for the formulation of the Budget and Policy Framework and the implementation of these in respect of all functions and services other than those listed in paragraphs 1 and 2. The Executive has specific responsibility for ensuring that best practice risk management strategies and procedures are embedded throughout the authority.
- 5.2 Any onward delegations permitted by this section of the Constitution shall not, in any event, prejudice the management and operational delegations to officers approved by the Council and set out in Section 6 of this part of the Constitution. Individual Members of the Executive shall observe any limits on delegations which may be specified by the Council and shall, at all times, act in compliance with the Council's Financial, Contracts and all other relevant procedure rules as set out in this Constitution.

### **5.3 Delegation of Executive Functions**

Within the terms of the Constitution, the Leader may further provide for Executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a Committee of the Executive;
- (iii) an individual Member of the Executive;
- (iv) an Officer;
- (v) jointly with another local authority
- (vi) another local authority

### **5.4 Delegation by the Leader**

At the Annual Meeting of the Council, the Leader will present to the Council, a written record of delegations made by him or her for inclusion in the Council's Scheme of Delegation. The document presented by the Leader will contain the following information about Executive functions in relation to the coming municipal year:

- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
- (ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;

- (iii) the Terms of Reference and Constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements, and the names of those Executive Members appointed to any joint Committee for the coming municipal year.

At any time after the Annual Meeting of the Council, the Leader may, by written notice to the Proper Officer, alter the delegations made by him or her. The Notice to the Proper Officer shall contain the information, as set out above, insofar as it shall apply to the remainder of the municipal year. The Leader may at any time during the Municipal Year constitute a committee of the Executive by notice in writing to the Proper Officer setting out the information referred to in (ii) above. Any alteration to the delegations shall be reported to the next meeting of the Council.

## **5.5 Sub-delegation of Executive Functions**

- (i) Where the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to joint arrangements or an Officer.
- (ii) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.
- (iii) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader, may delegate further to an Officer.
- (iv) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- (v) Where Executive functions have been delegated, the person, or body, to whom the functions have been delegated, may, by notice in writing to the Proper Officer, remove the delegation, either generally, or in respect of one, or more, specific matters. In such event, the person or body by whom the functions have been delegated may either discharge the function or, in accordance with paragraphs (i) to (iii) above, and on written notice to the Proper Officer, delegate the function.
- (vi) Where the Executive, a Committee of the Executive, or an individual Member of the Executive is responsible for an Executive Function, they must not delegate such a function to an Executive Support Member.

Delegation of those decisions in Column A of the table below may only be made in accordance with the line relating to such decision in Column B of the Table.

<b>COLUMN A</b>	<b>COLUMN B</b>
Virement <u>within</u> Revenue Budgets £50,000 - £100,000	Whole Executive
Virement between Revenue Budgets up to £100,000	Whole Executive

Responsibility for submitting or recommending Draft Plan and Budgets	Whole Executive
Approval of Capital Expenditure	
<ul style="list-style-type: none"> <li>• Allocation of resources within a Council approved rolling programme and Contract Awards</li> <li>• &lt; £400,000</li> <li>• £400,000 - £1m</li> <li>• &gt; £1m</li> </ul>	<p>Relevant Director</p> <p>Relevant Director and Portfolio Holder</p> <p>Whole Executive</p>
<ul style="list-style-type: none"> <li>• Authorisation of Capital Expenditure above estimate</li> </ul> <p>Up to £25,000</p> <p>Above £25,000 - £50,000</p>	<p>Director</p> <p>Whole Executive</p>
<ul style="list-style-type: none"> <li>• Writing-off Debts</li> </ul> <p>Over £50,000</p>	Whole Executive
Acquisition of Land and Buildings	
<ul style="list-style-type: none"> <li>• £100,000 - £500,000</li> <li>• Over £500,000</li> </ul>	<p>Whole Executive</p> <p>Whole Executive</p>
Disposal of Land and Buildings	
<ul style="list-style-type: none"> <li>• Less than 0.5 hectares and not exceeding £500,000</li> <li>• Over 0.5 hectares or above £500,000</li> </ul>	<p>Whole Executive</p> <p>Whole Executive</p>
Contract Award – the rules relating to key decisions apply in all cases	
<ul style="list-style-type: none"> <li>• &lt; £400,000</li> <li>• £400,000 - £1m</li> <li>• &gt; £1m</li> </ul>	<p>Relevant Director</p> <p>Relevant Director and Portfolio Holder</p> <p>Whole Executive</p>

## 5.6 Individual Members of the Executive

Members of the Executive are allocated responsibility for the following functions:

### **Executive Member for Council Strategy and Community Cohesion (Leader of the Council and Chairman of the Executive)**

The **Executive Member for Council Strategy and Community Cohesion** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The formulation and implementation of the Community Plan.
- 2 Making arrangements for the formulation of proposals for the annual Revenue and Capital Budgets and of proposals for the level of Council Tax.
- 3 The powers and duties of the Council for the collection of local taxes.
- 4 The co-ordination of annual service planning, review and performance monitoring.
- 5 The Council's arrangements for community engagement.
- 6 Matters relating to the Local Government Association and regional groupings.
- 7 The management, maintenance, improvement, development and redevelopment of Bracknell Town Centre, insofar as these functions are not the responsibility of the Bracknell Town Centre Regeneration Committee.
- 8 The appointment of Members to Committees of the Executive, including, where the Executive Member for Council Strategy considers it appropriate, the appointment of the Chairman and the Vice-Chairman of those Committees.
- 9 The determination of the Terms of Reference of the Committees of the Executive.
- 10 The appointment of Members to external bodies, whose functions are the sole responsibility of Bracknell Forest's Executive.
- 11 To act as Chairman of meetings of the Executive.
- 12 The formulation and implementation of the Community Cohesion Strategy.
- 13 The Council's arrangements for community engagement particularly in relation to young people, vulnerable adults, black and minority ethnic groups and "hard to reach" groups.
- 14 The Council's arrangements to meet the requirements of Equalities legislation.

## **Executive Member for Leisure, Corporate Services and Public Protection**

The **Executive Member for Leisure, Corporate Services and Public Protection** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 Overall performance and effective operation of the Corporate Services Department (Democratic and Registration Services, Information and Communications Technology, Legal Services, Human Resources and Customer Services.)
- 2 The development and introduction of Information and Communications Technology and its use.
- 3 The Council's powers under Sections 29 and 38 of the Local Government (Miscellaneous Provisions) Act 1976.
- 4 The Council's powers under Section 2 of the Local Government Act 2000 [the promotion of well-being.]
- 5 The provision, maintenance and development of leisure services and facilities.
- 6 Voluntary managed Community Centres.
- 7 Management and promotion of rights of way and recreational routes for the Borough.
- 8 Nature and Heritage Conservation.
- 9 Tourism information, initiatives and services.
- 10 Recreational Parks, Open Spaces and Countryside.
- 11 Measures to promote the health of Borough residents.
- 12 Arts and Cultural Activities.
- 13 The corporate public relations, marketing and communications function.
- 14 Grounds maintenance, other than countryside maintenance.
- 15 The Coroner's Services, Cemeteries and the Crematorium.
- 16 Overall performance of the Environment and Leisure Department relating to those parts for which the Executive Member is responsible.
- 17 Emergency Planning
- 18 The formulation and implementation of the Safer Communities Strategy.
- 19 Liaison with the Royal Berkshire Fire and Rescue Service
- 20 Liaison with the Thames Valley Police

- 21 Liaison with the Royal Berkshire NHS Ambulance Trust
- 22 CCTV systems in public places.
- 23 Liaison with the Town and Parish Councils in the Borough.
- 24 Environmental standards including:-
  - Food and safety control
  - Control and monitoring of pollution and statutory nuisances
  - Infectious disease and pest control
- 25 Trading standards including:-
  - Weights and measures.
  - Fair trading.
  - Trade description.
  - Consumer credit and safety.
  - Consumer complaints.
- 26 Health and Safety including:-
  - Health, safety and welfare of people at, or affected by, work.
  - Promotion of health education and home safety.
- 27 Removal and disposal of abandoned vehicles.
- 28 Any functions under any licensing legislation which are Executive Functions and which do not fall within the remit of any other Executive Member.

#### **Executive Member for Education and Libraries**

The **Executive Member for Education and Libraries** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The Council's responsibilities for schools and related matters including extended schools, admissions and transport.
- 2 The Council's responsibilities for Adult and Community Learning.
- 3 The Library and Information Services.
- 4 The overall performance of the Education, Children's Services and Libraries Department in respect of these functions.

## **Executive Member for Planning and Transportation**

The **Executive Member for Planning and Transportation** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The functions of the Council under Town and Country Planning legislation.
- 2 The functions of the Council as Local Highway Authority.
- 3 The functions of the Council as Streets Authority (including on-street parking.)
- 4 The functions of the Council under the Road Traffic Regulation legislation and in respect of road closures.
- 5 The functions of the Council relating to Public Rights of Way, cycle routes and pedestrian ways
- 6 Road Safety
- 7 The parking of vehicles in respect of Council functions and Orders where these relate to the public highway (other than abandoned vehicles and street trading.)
- 8 The functions of the Council under the Transport Act 1985 and making representations and objections in respect of applications under HGV licensing legislation.
- 9 The functions of the Council under the Building Acts.
- 10 The overall performance of the Environment and Leisure Department relating to those functions for which the Executive Member is responsible.
- 11 To represent the Council on regional and sub-regional planning and transportation matters.
- 12 To represent the Council on the Strategic Housing Partnership and the Strategic Transport Partnership.
- 13 The functions of the Council under the Traffic Management Act 2004
- 14 Car Park management and maintenance (including on-street schemes and the provision of car parking solutions.)

## **Executive Member for the Environment**

The **Executive Member for the Environment** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 Waste and recyclate collection
- 2 Public cleansing, including street sweeping, cesspools and private sewers.
- 3 Bracknell Market
- 4 Public Conveniences

- 5 Climate change (mitigation and adaptation)
- 6 Weighbridges
- 7 Rural hedges and ditches
- 8 Environmental Improvement Schemes
- 9 Waste disposal and recycling
- 10 The overall performance of the Environment and Leisure Department relating to those functions for which the Executive Member is responsible.

#### **Executive Member for Children's Services**

The **Executive Member for Children's Services** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The Council's responsibilities for children's social care and related matters.
- 2 The Youth and Community Service and Centres.
- 3 The Early Years and Childcare Service.
- 4 Children's Centres.
- 5 To represent the Council on the Berkshire Adoption Panel.
- 6 To represent the Council on the Bracknell Forest and Windsor and Maidenhead Joint Fostering Panel.
- 7 Liaison with other providers of services to children and young people.
- 8 Overall performance of the Education, Children's Services and Libraries Department in respect of these functions.
- 9 Communicating with, liaising with, and championing the needs of looked after children in the borough.

#### **Executive Member for Adult Services, Health and Housing (currently also Deputy Leader of the Council)**

The **Executive Member for Adult Services, Health and Housing** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The Council's functions as a Housing Authority.
- 2 The overall performance of the Adult Services and Housing Department.
- 3 Liaison and joint commissioning with providers of health care services.
- 4 Bracknell Forest Services.

### **Executive Member for Finance, Resources and Assets (currently also Deputy Chairman of the Executive)**

The **Executive Member for Finance, Resources and Assets** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The formulation of the Council's annual revenue budget, and its implementation following its approval by Council.
- 2 The formulation of the Council's annual capital budget, and its implementation following its approval by Council.
- 3 The maximisation of the assets and revenue of the Council via contributions under Section 106 arrangements.
- 4 Financial (including investment and insurance) Management.
- 5 To act as lead Member in relation to risk management.
- 6 Major capital projects
- 7 The realisation of capital resources
- 8 The management of all property and land owned by the Council other than that which is used as operational property for functions which are allocated to another Executive Member.
- 9 Building Maintenance Services.
- 10 Strategic and planned maintenance of all Council properties other than schools and the Council's housing stock.
- 11 The provision of, maintenance and management of the Council's central fleet of vehicles and mechanical equipment and plant.
- 12 To act as deputy chairman at meetings of the Executive.
- 13 Overall performance and effective operation of the Corporate Services Department (Financial Services and Corporate Property.)

#### **5.7 Committees of the Executive**

##### **Bracknell Town Centre Regeneration Committee**

Insofar as they comprise Executive Functions, the **Bracknell Town Centre Regeneration Committee** has the following responsibilities:

- 1 General responsibility for the oversight of matters relating to the approved Master Plan for the regeneration of Bracknell Town Centre.
- 2 Formulation of proposals for applications for planning permission for development in Bracknell Town Centre.

- 3 Formulation of the Council's Property Strategy within Bracknell Town Centre, including dealings with existing landowners, the process for seeking and obtaining a development partner, or partners.
- 4 Subject to the limitations contained in the General Framework for Delegations established by the Council and Existing Delegations to Officers, approval of the Terms of Development Agreements, other agreements with developers and those related to any CPO process, and other property agreements.
- 5 Determination of all matters which may be necessary to secure implementation of the approved Master Plan other than development or building control functions.

5.8 Joint Arrangements

- 1 Joint Strategic Planning Committee
- 2 Berkshire Adoption Panel
- 3 Bracknell Forest and Windsor and Maidenhead Joint Fostering Panel
- 4 Joint Waste Disposal Board

## **6. POWERS EXERCISABLE BY OFFICERS**

6.1 Except where indicated otherwise, the following paragraphs of this Appendix describe the allocation of both Executive and non-Executive functions to Officers. Table 1 below sets out a list of powers which are exercisable by Officers. The list is without prejudice to the general provisions of this Appendix which follow.

### **6.2 Authorisations and Limitations**

#### **(a) Management Delegations**

Subject to the exclusions summarised at (c) below, the limitations set out in (d) below and full compliance with the procedure rules, regulations and policies and procedures referred to in 3 below, each Director is authorised to exercise the Council's powers (including those relating to Executive responsibilities) in relation to the day-to-day management of the Department for which he or she is responsible, including authority to:-

- (i) appoint, manage and dismiss staff, save in respect of appointments and dismissals of senior Officer posts reserved for Member appointments;
- (ii) make minor alterations to departmental structures;
- (iii) place orders, and enter into contracts for, the supply of goods and services and, where appropriate, for building and engineering works; and to authorise or incur any other expenditure for which provision has been made in the appropriate Revenue or Capital Budget;
- (iv) manage any physical assets, including land and buildings, acquired by or allocated to the department for which the Director is responsible;
- (v) accept the surrender of leases and licences where these are in the interests of good asset management and where there is no significant adverse financial effect upon the Council;
- (vi) approve the release of Section 106 funds where these are included in an approved capital budget, in consultation with the appropriate Executive Member; and
- (vii) respond to consultation papers published by or on behalf of the government or a government agency, in consultation with the relevant Executive Member, Committee Chairman or the Mayor, as appropriate.
- (viii) appoint proper and statutory Officers save where such decisions are reserved for Members

For the purposes of the above, day to day management shall be taken to include those items which have been recognised as such by past practice or by specific Committee resolution, or which the Chief Executive, in consultation with the appropriate Director, agrees is ancillary to or

analogous with matters accepted as being within the scope of day to day business exercised by Officers.

(b) Authorised Delegations

Subject to the same considerations set out in (a) above, the Chief Executive or a Director may take operational decisions and exercise any of the Council's powers in relation to the service for which he/she is responsible as set out in Table 1 to this Part of the Constitution.

For this purpose, the term "operational decision" does not include:

- (i) decisions which cannot be made within established general policies or practices;
- (ii) decisions which lead to expenditure which cannot be met from approved budgets;
- (iii) the enactment, alteration or revocation of bylaws or private legislation;
- (iv) in the event of a civil emergency the Council's designated Senior Officer is authorised to exercise all the powers of the Council provided that the Senior Officer shall not be authorised to incur expenditure in excess of £100,000 without the concurrence of the Borough Treasurer or his designated nominee; and

(c) Limitation of Delegations

Delegations are subject to the following restrictions or conditions.

- (i) in exercising their delegated powers, officers shall also have regard to the authority and responsibility placed on the Chief Executive for the overall management and co-ordination of the Council and shall comply with any general management directives and requests for information.
- (ii) in dealing with matters requiring professional judgement, officers shall also have regard to any statutory responsibilities.
- (iii) where a matter requires a professional judgement and the officer is not professionally qualified in that subject, he/she shall seek appropriate professional advice before exercising his/her delegation.
- (iv) charges for services shall only be levied as set out in the annual budget approved by Council save that Directors may fix charges for any new service provided that such charges shall be reported to the next meeting of the Council's Executive Committee or Sub-Committee (as appropriate) and

(A) Directors may:-

- set charges for any new service or vary charges for existing services (provided that such variation shall be reported to the next meeting of the Executive), and

(B) the Director of Environment, Culture and Communities may:-

- vary Leisure charges from time to time for limited periods for the purposes of promoting a service

(C) the Director of Social Care and Learning may in consultation with the Borough Treasurer increase foster care allowances in accordance with scales recommended by the National Foster Carers Association

- (v) Notices and Orders shall not be issued other than by the Borough Solicitor if he/she has indicated that such Notices should be issued in his/her name
- (vi) the making of Compulsory Purchase Orders is not delegated to Officers
- (vii) setting the overall level of budgetary provision within the divisions of service is not delegated to Officers
- (viii) a Director or a Chief Officer shall not exercise any delegated powers for any regulatory function in respect of any premises the management of which they are responsible for.

(d) Delegation to Subordinate Officers

A Director or other Officer referred to in Table 1 may arrange for other Officers under his/her control to exercise some or all of his/her powers, subject to:-

- (i) unless the Director otherwise agrees, such powers being exercised in the name of the Director;
- (ii) responsibility for any actions taken by a subordinate shall remain with the Director or other Officer referred to in Table 1.
- (iii) authority to incur expenditure or authorise payment shall only be delegated in accordance with Financial Regulations (Finance Procedure Rules); and
- (iv) notwithstanding the above, a valuation certificate which needs to be signed by a qualified valuer shall be signed by an Officer nominated by the Director of Corporate Services.

A Chief Officer who has been authorised to exercise a power pursuant to the above may arrange for the power to be exercised by an officer under his/ her control, subject to (i) to (iv) above.

A Director may delegate a function to an officer in another department, subject to concurrence of the Director to whom the proposed delegate reports.

The Chief Executive may delegate any of his functions as Electoral Registration Officer to the Head of Democratic and Registration Services.

(e) Authorised Deputies

- (i) Where there is a vacancy in the post of Chief Executive, Director or other Officer referred to in Table 1 or such person is unable to act the powers

authorised to be exercised by the postholder may be exercised by the person(s) who are performing the functions of the post pending an appointment or who would perform them if there were such a vacancy.

- (ii) Where the post of a Director or other person referred to in Table 1 is vacant or the post holder is unable to act and there is no person able to act pursuant to (i) above the powers of the post holder may be exercised by the Chief Executive or if he/she is unable to act then by any other member of the Corporate Management Team.

### **6.3 Standing Orders and Regulations etc Applying to Delegated Authority.**

(a) General

At all times Officers exercising the powers under the delegation arrangements described above are acting on behalf of and in the name of the Council unless statutory provisions indicate otherwise. In order to provide high standards in public service and to demonstrate value for money, Officers are required to exercise their delegated authority within the framework approved by the Council, as summarised below.

(b) Financial Management

In all matters of financial management, Officers shall comply with the provisions of the Council's Financial Regulations set out in this Constitution. (Separate Financial Regulations relating to schools are included in the Council's Scheme of Local Management in Schools.)

(c) Contracts and Purchasing

No Officer shall place orders or authorise contracts to be awarded, otherwise than in accordance with the Council's Procedure Rules, as set out in this Constitution.

(d) Personnel Management (a non-Executive responsibility.)

- (i) Recruitment may only be authorised where there is sufficient financial provision in the department's budget for the current financial year and where the costs (if any) of the appointment in the following year can be contained within the approved plans.
- (ii) In all other matters of personnel management, including remuneration, selection, training and the consideration of proposals having a direct impact on employee groups, Officers shall comply with the Council's personnel policies, regulations and codes of practice.
- (iii) Directors shall consult with the Borough Human Resources Manager on staffing matters having corporate implications including:
  - any proposals involving redundancy or early retirement on efficiency or medical grounds;
  - the application of the Council's job evaluation and grading scheme;

- any extension of sick pay on half pay after the expiry of contractual entitlement for periods of more than 3 months;
- awarding honoraria in excess of £1,000;
- granting leave of absence without pay for periods in excess of 3 months;
- payment of excess flexitime;
- authorising the carry over and/or payment of annual leave in excess of 10 days.

(e) Management of Land and Buildings

- (i) In managing land and buildings under their control Officers shall comply with the policies and procedures agreed by the Council.
- (ii) Where land and buildings under the control of a department cease to be used for the purpose for which they were acquired or allocated, the matter shall be referred to the Executive.

(f) Information Technology Strategy

In all matters involving the use of Information and Communications Technology (ICT), Officers shall comply with the Council's Information Systems and Technology Strategy.

#### **6.4 Urgent Decisions (including Recess Arrangements)**

6.4.1 Save in respect of the period from the date of Election to (and including) the date of the Annual Meeting of the Council following the Election, where an immediate decision is required in connection with a non-Executive function on:-

- (a) a matter which would normally be referred for a decision to Council or to a Committee of the Council (other than an Overview and Scrutiny Committee) or a Sub-Committee and
- (b) the Mayor or the Chairman does not consider it appropriate to convene a special meeting

then, subject to (c) below, all the powers and duties of the Council, Committee or Sub-Committee may be exercised by the Chief Executive, or the appropriate Director, provided that the Chief Executive or Director:-

- (i) obtains the written agreement of the Mayor (and in the case of a decision normally referred to Council the written agreement of The Leader and the Leader of any Minority Group) or appropriate Chairman to the course of action proposed;
- (ii) shall submit a full report on the decision to the first available meeting of the relevant body, including an explanation of the reason for urgency.

- (c) the extent of delegation authorised under this paragraph 6.4.1 is subject to the same exclusions, limitations and conditions that would have applied had the matter been dealt with by the relevant Committee, or Sub-Committee.
- 6.4.2 In respect of the period from the date of Elections to the Council until (and including) the date of the Annual Meeting of the Council following the Elections, where an immediate decision is required in respect of either an Executive or non-Executive function and (if the matter relates to a non-Executive function) the Mayor does not consider it appropriate to convene a special meeting then the decision may be taken by the Chief Executive provided that the Chief Executive:-
- (i) obtains the written agreement of the Mayor (or, in the event of the Mayor not being immediately available, the Deputy Mayor) to the course of action proposed;
  - (ii) shall submit a full report on the decision to the first available meeting of the relevant body, including an explanation of the reason for urgency.

The extent of delegation authorised under this paragraph 4.2 is subject to the same exclusions, limitations and conditions that would have applied had the matter been dealt with by the relevant Committee, Sub-Committee or Executive authority.

## **7. Urgent Decisions – Key Decisions**

Articles 15 and 16 of the Access to Information Rules in Part 4 of this Constitution apply to Key Decisions which need to be taken urgently.

## **8. References to Legislation**

Any references to legislation shall be deemed to include subordinate legislation.

## TABLE 1

### A. CHIEF EXECUTIVE AND DIRECTORS - GENERAL POWERS

The Chief Executive and, for the purposes of those powers and duties which they are respectively authorised to discharge, Directors, are authorised to take the following actions and measures:-

1. all actions and measures which are authorised by the Council's Contract Procedure Rules and Finance Procedure Rules.
2. authorising the Borough Solicitor to institute proceedings to recover monies due to the Council and/or to recover land owned by the Council.
3. authorising Officers to exercise powers to enter land, to exercise powers of inspection, seizure and to detain goods.
4. respond to requests under Data Protection and Freedom of Information legislation
5. make ex gratia payments to staff under Section 265 of the Public Health Act 1875 in respect of claims relating to damage or injury resulting from the actions of service users or in carrying out the Council's functions

### B. CHIEF EXECUTIVE

The Chief Executive is authorised to:-

1. take such measures as are appropriate in his or her capacity as the Head of the Paid Service.
2. take such steps as are properly required to ensure the effective implementation of the decisions of the Council, its Committees and Sub-Committees and the Executive.
3. act as Returning Officer.
4. witness and receive Declarations of Acceptance of Office and receive Declarations of Resignation of Office under Section 84 of the Local Government Act 1972.

The Chief Executive is designated as the Council's Electoral Registration Officer (the Head of Democratic and Registration Services is designated as the Deputy Electoral Registration Officer)

#### Assistant Chief Executive

5. The Assistant Chief Executive is authorised to submit planning applications on behalf of the Council.

### C. DIRECTOR OF CORPORATE SERVICES

#### **Operational and Corporate Management**

The Director of Corporate Services is authorised to:-

- 1 secure and make arrangements for the provision of the following services to the Council:-
  - (a) Finance, including Procurement, Transport, Audit and Risk Management
  - (b) Legal
  - (c) Human Resources, including organisation development and Health and Safety
  - (d) Information and Communications Technology
  - (e) Democratic and Registration Services, including administrative support to the Council, Scrutiny Bodies and Regulatory Committees, the Executive, appeals and review processes; the management, repair and maintenance of the Council's Civic Offices, the provision of catering services for the Civic Offices and the provision of a courier service for the delivery of Council documents
  - (f) Property Services, including Facilities Management
  - (g) Customer Services, including Revenue Services
  - (h) Community Engagement and Equalities
- 2 make arrangements for Mayoral transport and other Member support.
- 3 maintain a Register of Members' Interests and Members' Allowances.

### **Housing**

- 4 The Director of Corporate Services is authorised to exercise the powers of the Council under Schedule 16 of the Housing Act 1985 (Local Authority Mortgage Interest Rates).

### **Council Tax and National Non-Domestic Rate Collection**

- 5 The Director of Corporate Services is authorised to exercise the Council's powers and duties (including action to recover arrears) relating to Community Charge, Council Tax and Non-Domestic Rates excepting the determination of discretionary rate relief under Sections 47 and 48 Local Government Finance Act 1988.

### **D. DELEGATIONS TO DIRECTOR OF SOCIAL CARE AND LEARNING**

- 1 Subject to the exceptions, limitations and reservations set out below, the Director of Education, Children's Services and Libraries is authorised to exercise all the powers and perform all the duties of the Council in respect of the following functions:-

#### **1.1 Education, Children's Services and Adult Social Services**

Those functions referred to in:

- (a) Section 18(2) of the Children Act 2004; and,
- (b) Section 1A of the Local Authority Social Services Act 1970.

## **1.2 Library Services**

- (a) The Council's functions under the Public Libraries and Museums Act 1964.
- (b) In respect of libraries and museums:-
  - (i) select and purchase books and audio visual material;
  - (ii) select and purchase newspapers and periodicals for public use within agreed policies;
  - (iii) determine the cost of replacement of library items and authorise the issue of legal proceedings for the recovery of the value of items not returned;
  - (iv) determine the method of disposal of withdrawn library items including sale charges;
  - (v) control the number of books reserved and the number of books on loan; and
  - (vi) set the fixed fees and charges for all loan services.

## **1.3 Youth Service**

The Council's functions in respect of the provision of a youth service.

## **1.4 Complaints**

The Director may take action on the recommendation of a Complaints Review Panel to include the making of compensatory awards.

## **1.5 Miscellaneous**

- (a) Discretion to vary and waive charges to service users or their parents.
- (b) Discretion to pay an applicant's legal expenses in applying for and obtaining Residence Orders, Section 8 Children Act 1989 Orders and Adoption Orders in respect of a child in care.
- (c) Discretion to make payments to holders of Residence and Adoption Orders (for children previously in care) where agreed prior to the Order being applied for and post Orders in exceptional circumstances.
- (d) Discretion to give consent for the marriage of a young person in care under Section 3 of the Marriage Act 1949 as amended by the Family Law Reform Act 1969.
- (e) Discretion to approve the application of children and young persons in the care of Bracknell Forest Borough Council who wish to join Her Majesty's Forces.
- (f) To administer the Disabled Persons Badge Parking Scheme.

- (g) To act as a receiver in all matters in which it is appropriate for an officer of the Council to so act.

**2. Exceptions and Limitations**

2.1 In respect of all the functions referred to above:

- (a) The approval of all statutory plans
- (b) The formulation and approval of all policies (other than those concerning day-to-day management) including (amongst other things) those relating to:-
  - (i) Premature retirement compensation;
  - (ii) Home to school transport;
  - (iii) Denominational school transport;
  - (iv) School admissions;
  - (v) School meals;
  - (vi) Student awards;
  - (vii) Special educational needs.
- (c) Setting the charging rates for users
- (d) Approving exceptions to the Premature Retirement Policy.
- (e) Approving bids for expenditure qualifying for Government grants.

2.2 In paragraph 1.1 above:-

- (a) Significant variations to the Scheme of Local Management of Schools and Special Education and the suspension or withdrawal of delegated budgets to schools.
- (b) Reorganisations deriving from reviews of primary, secondary and special education and the publication of statutory notices in connection therewith and the consequent necessary recommendations to the School Organisation Committee.
- (c) Arrangements for Member-level liaison and consultation of school governing bodies, head teachers and staff associations and other bodies involved in the provision of education.
- (d) Authorising the constitution of the Secure Accommodation Review Panel.
- (e) Approving day care reviews under Section 19 of the Children Act 1989.
- (f) Approving the introduction of a Direct Payment Scheme.
- (g) Hearing Stage 3 complaints under Section 26 of the Children Act 1989.

(h) Approving further delegations of the Education Service Budget to schools.

**E. DIRECTOR OF ENVIRONMENT, CULTURE AND COMMUNITIES**

- 1 Subject to the exceptions and limitations set out in Paragraph 2 below, the Director of Environment and Leisure is authorised to exercise the functions of the Council:-
  - 1.1 Relating to trees and hedgerows.
  - 1.2 As Highways Authority, Street Authority, Traffic Authority, Local Traffic Authority and all other legislation relating to highways, transportation (including car and lorry parks), street management, street works and/or management and rights of way save for functions under the Town and Country Planning Acts.
  - 1.3 As local housing authority and under legislation relating to housing.
  - 1.4 Relating to Housing Benefits.
  - 1.5 The negotiation and conclusion of nomination agreements with registered social landlords or similar organisations under which the Council secures the maximum nomination rights allowed by law and any relevant consents.
  - 1.6 Management of caravan sites, including allocation of pitches and removal of caravans.
  - 1.7 Relating to Forest Care.
  - 1.8 Under the Building Act 1984, and all other legislation relating to dangerous buildings and structures, protection of buildings, ruinous and dilapidated buildings and neglected sites and building control save for functions under the Town and Country Planning Acts.
  - 1.9 That excepting the power to designate whether an area should be (a) subject to additional licensing (Section 56), and (b) subject to selective licensing (Section 80), to exercise all the powers and perform all of the duties of the Council under Parts 1,2,3,4 and 7 of the Housing Act 2004.
  - 1.10 Relating to licensing, registration and permits.
  - 1.11 Relating to weights and measures, fair trading, trade descriptions, consumer safety and trading standards.
  - 1.12 Enforcement and inspection functions, and related powers, under legislation relating to Health and Safety at work.
  - 1.13 Relating to food safety and quality (including signing of certificates in respect of the export and import of food products).
  - 1.14 Relating to water quality, contaminated land, smoke control, pollution control, statutory nuisances, clean air and air quality.
  - 1.15 Relating to pest control, notifiable diseases and food poisoning.
  - 1.16 Relating to the recycling, the collection, disposal, management and regulation of waste.

- 1.17 Relating to street maintenance and grounds maintenance.
- 1.18 Relating to weighbridges.
- 1.19 Relating to Bracknell Market.
- 1.20 Relating to Emergency Planning.
- 1.21 Relating to litter.
- 1.22 Relating to arrangements for the disposal of the dead, cemeteries and crematoria.
- 1.23 Relating to dogs and animal welfare.
- 1.24 Under the Berkshire Act 1986.
- 1.25 Relating to recreation, leisure, open spaces, arts and cultural activities.
- 1.26 Relating to grants.
- 1.27 Under Antisocial Behaviour legislation relating to:-
  - Antisocial Behaviour Orders where the securing of such Orders is considered appropriate in connection with any other functions delegated to the Director of Environment and Leisure.
  - Fixed Penalty Notices for graffiti and fly-posting.
  - The sale of aerosol paints to children.
- 1.28 Relating to the Coroner's Service.
- 1.29 Relating to Explosives.
- 1.30 To appoint independent surveyors in the event of a Party Wall dispute.
- 1.31 Relating to drainage (including Land Drainage)
- 1.32 Under Parts VI, IX, X and XI of the Housing Act 1985.
- 1.33 Relating to public conveniences, septic tanks, cesspools and private sewers.
- 1.34 Relating to the removal, and disposal of, abandoned vehicles and untaxed vehicles.
- 1.35 The approval of grants for the renewal or improvement of housing.
- 1.36 Objecting to the granting of Bookmakers' Permits and lodging objections to Betting Office Licences.
- 1.37 Arranging for the removal to suitable premises of persons in need of care and attention under Section 47 of the National Assistance Act 1948.
- 1.38 Relating to archives and museums.

1.39 Under Part 1 of the Health Act 2006 and under the Smoke Free (Premises and Enforcement) Regulations 2006.

## 2. **Exceptions and Limitations**

2.1 Paragraph 1.2:-

- (a) authorisation for the Borough Solicitor to enter into Agreements under Section 72 or 278 of the Highways Act 1980 can only be given where works to the highway and/or widening of the highway are required as part of a scheme for which planning consent has been obtained or which has been approved by, or on behalf of, the Executive.
- (b) construction of road humps and approval to traffic calming works.
- (c) street naming and renaming, numbering and renumbering should be carried out in accordance with the procedure agreed by the Planning and Transportation Committee on 1 October 1998.
- (d) applications for consent to hold social events on a highway may only be determined following consultation with the relevant Executive Member, Ward Councillors, the Police and the relevant Town or Parish Council.
- (e) Traffic management schemes and minor road improvements may only be authorised up to a maximum of £50,000 per scheme and if Ward Councillors have raised no objection, provided that any such works may be authorised where they are required urgently in the interests of road safety.
- (f) authority to enter into Public Path Creation Agreements is limited to where there is no Capital payment by the Council.
- (g) authority to instruct the Borough Solicitor to make Traffic Orders in respect of approved schemes is limited to where no objection has been received.
- (h) the making of a Gating Order

Paragraph 1.3:-

- (a) setting of rent levels.
- (b) section 17, Housing Act 1985 (acquisition of land for housing purposes).
- (c) section 19, Housing Act 1985 (appropriation of land).
- (d) section 23, Housing Act 1985 (Making of byelaws).
- (e) consideration of periodical review of housing needs.
- (f) section 27A, Housing Act 1985 (management agreements).
- (g) disposal of land other than council houses under the "Right to Buy" legislation, freehold reversions, small land sales and licences to occupy or access council land.
- (h) section 102, Housing Act 1985 (variation of terms of secure tenancies).

- (i) determination of arrangements for consultation with tenants, pursuant to section 105, Housing Act 1985.
- (j) determination of Housing Allocation Scheme.
- (k) warrants for possession of dwellings may only be sought after consultation with a designated member of the Executive.

2.3 Paragraph 1.10:-

- (a) the designation of streets under street trading legislation (the Director may take steps preliminary to the designation).
- (b) the functions which the Licensing Act 2003 requires, or guidance issued by the Secretary of State there under advises, should be carried out by the Council, a Committee or Sub-Committee.
- (c) the approval of model conditions.

2.4 Paragraph 1.14 – the designation of smoke control areas.

2.5 Paragraph 1.17 – the approval of policies as to waste receptacles.

2.6 Paragraph 1.19 – the setting of stall rentals or the letting of contracts for the operation of the market.

2.7 Paragraph 1.20 – the approval of the Emergency Plan.

2.8 Paragraph 1.21 – the designation of litter control areas.

## **G. BOROUGH TREASURER**

1 The Borough Treasurer is authorised to:-

1.1 Take all appropriate steps and measures to discharge the function of the Borough Treasurer as having responsibility for the administration of the financial affairs of the Council, under Section 151 of the Local Government Act 1972.

1.2 Arrange insurance on behalf of the Council.

1.3 Authorise the Borough Solicitor to institute legal proceedings to recover monies due to the Council.

1.4 Invest surplus monies in accordance with the Council's approved investment policies.

1.5 Raise loans as required.

1.6 In consultation with the Director of Social Care and Learning and the Borough Solicitor act in the administration of:-

- (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
- (b) a child or young person who has died whilst in the care of the Council.

- 1.7 Jointly with the Borough Solicitor, accept and manage money or other gifts from third parties for, and on behalf of, children or young persons.
- 1.8 Write-off irrecoverable debts.
- 1.9 To discharge his or her functions and exercise his or her powers under Contract Standing Orders and Financial Regulations.
- 1.10 Jointly with the Chief Officer: Housing, subject to consultation with the Chief Officer: Property, to determine requests to waive repayment of discounts on "Right to Buy" disposals of Council housing (Section 185 of the Housing Act 2004).

#### **H. BOROUGH SOLICITOR**

- 1 The Borough Solicitor is authorised to:-
- 1. Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its Committees, Sub-Committees, the Executive or of an Officer acting within the scope of his or her authorised powers.
- 2. On behalf of the Council, to defend, institute, participate in, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal where such action is necessary to give effect to decisions of the Council or in any case where the Borough Solicitor considers that such action is necessary to protect the Council's interests.
- 3. Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons other than solicitors or barristers to represent the Council in legal proceedings.
- 4. Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
- 5. Certify or authenticate any matter requiring certification or authentication on behalf of the Council.
- 6. Determine applications for formal registration or certification made in pursuance of any legislation conferring such a function upon the Council in any cases where a Director is not authorised to take such action.
- 7. In consultation with the Director of Social Care and Learning and the Borough Treasurer act in the administration of:
  - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
  - (b) a child or young person who has died whilst in the care of the Council.
- 8. Jointly with the Borough Treasurer, accept and manage money or other gifts from third parties for, and on behalf of, children or young persons in care.
- 9. Exercise the Council's powers to be a Trust Corporation.

10. Exercise the Council's powers and duties in relation to commons and town and village greens.
11. Act as the Monitoring Officer.
12. To discharge his or her functions and exercise his or her powers under Contract Standing Orders and Financial Regulations.
13. To discharge the Council's functions under the Data Protection and Freedom of Information legislation.

**I. CHIEF OFFICER: PROPERTY**

1. Subject to the exceptions and limitations in Paragraph 2 below, the Head of Property is authorised to:-
  - 1.1 Grant disposal, create or acquire land or interest in land (including wayleaves and easements).
  - 1.2 Grant or secure licences relating to the occupation and use of land.
  - 1.3 Determine rent reviews and grant consents and/or take any other action under the terms of a transfer of land to, or by the Council, lease or licence relating to the use and/or occupation of land
  - 1.4 Agree all payments in connection with the acquisition of land under Compulsory Purchase Powers, including home loss and disturbance payments.
  - 1.5 Submit planning applications on behalf of the Council.
  - 1.6 Authorise the service of Notices under Landlord and Tenant legislation and other Agreements in respect of land.

**2. Exceptions and Limitations**

- 2.1 Rent reviews and the grant or renewal of leases or licences providing for the rental of £50,000 or more shall be reported to the Executive Member for information.
- 2.2 The authority to grant any licence, wayleave or easement is limited to those instances where no security of tenure is to be obtained and the length of the term does not exceed five years.
- 2.3 Authority to acquire a licence, wayleave, easement, tenancy, lease of land or building for any purpose is limited to those instances where the term does not exceed five years or rental or other consideration does not exceed £10,000 per annum and the acquisition having previously been agreed in principle by, or on behalf of, the Council or the Executive
- 2.4 Any decision relating to property comprised within the Housing Revenue Account shall only be taken after consultation with the Director of Social Services and Housing.
- 2.5 The acquisition of any freehold interest in the land is subject to the acquisition having been previously agreed, in principle, by, or on behalf of, the Council or the Executive and the consideration not exceeding £500,000

- 2.6 Authority to dispose of amenity land is limited to land not exceeding 0.1 hectares
- 2.7 Authority to dispose of the Council's interest in surplus land is limited to land not exceeding 0.2 hectares and to the disposal having been previously agreed, in principle, by, or on behalf of, the Council or Executive

#### **J. HEAD OF DEVELOPMENT MANAGEMENT**

- 1. Subject to the exceptions and reservations set out in paragraph 2 below the Head of Development Management is authorised to exercise the functions of the Council as Local Planning Authority and contained in all other legislation relating to Town and Country Planning (including Listed Buildings and Conservation Areas).
- 2. Exceptions and Limitations
  - (a) applications (including applications to vary planning obligations or for a building to be listed) which any single Member of the Council expressly requests should be determined by the Planning and Highways Committee, provided that the request is supported, in writing, by a valid planning reason.
  - (b) applications (including applications to vary planning obligations or for a building to be listed) attracting valid planning objections before a delegated decision is made, where objections arise from not more than three households and/or organisations, may only be allowed by the Head of Planning and Building Control if he considers it appropriate to do so following reference to the Chairman of the Planning and Highways Committee and Ward Councillors.
  - (c) applications which, if approved, would be contrary to the Development Plan.
  - (d) applications for buildings to be listed where there is significant public interest.
  - (e) confirmation of Tree Preservation Orders where any valid objection has been received.
  - (f) authority to authorise the Borough Solicitor to issue/withdraw/waive or relax Enforcement Notices, Stop Notices and Listed Building Enforcement Notices shall only be given following consultation with the Chairman of the Planning and Highways Committee.
  - (g) authority to relax, delete or vary conditions attached to permissions and consents is limited to where the permission or consent was given under delegated powers.
  - (h) agreement to minor variations and alterations for plans shall be determined in accordance with Minute 100 of the Development Committee of 28 May 1992.
  - (i) the final approval of Local Development Documents and in respect of Development Plan Document approval for submission for examination in public.
  - (j) the designation of Conservation Areas.
  - (k) the revocation of planning permission.

- (l) the approval of a Supplementary Planning Document for public inspection.
  - (m) relating to trees and hedgerows.
3. That in addition and in order to avoid any potential conflict of interest issues arising from any land management responsibilities, the Scheme of Delegation be amended to appoint the Head of Planning and Building Control as the authorised officer for the purposes of determining all planning-related applications and notifications made under the provisions of the Town and Country Planning Acts (including the Listed Building and Conservation Areas Act).

**K. CHIEF OFFICER: HOUSING**

1. The Chief Officer: Housing is authorised, jointly with the Borough Treasurer, subject to consultation with the Head of Property, to determine requests to waive repayment of discounts on "Right to Buy" disposals of Council housing (Section 185 of the Housing Act 2004).

**L HEAD OF DEMOCRATIC & REGISTRATION SERVICES**

- 1 The Head of Democratic & Registration Services is authorised to discharge the Council's functions in connection with civil registration services and electoral registration.

**M BOROUGH HUMAN RESOURCES MANAGER**

- 1 The Borough Human Resources Manager is authorised to sign Compromise Agreements to settle Employment Tribunal proceedings.