

## Section 1 - Council Functions

The table below details the functions that are the responsibility of the council and the delegation arrangements

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Adopting and changing the constitution including standing orders	<u>Council meeting only</u>  Audit and Governance committee (finance procedure rules and contract procedure rules. Chief executive employee code of conduct (in consultation with employment panel) Monitoring officer (technical changes or those required by law only)
	Budget and policy framework <ul style="list-style-type: none"> <li>• Policy</li> </ul> The adoption of the following plans and strategies Annual library plan (if secretary of state requests) under s1(2) of the Public libraries and museums Act 1964  Children and young people's plan under the Children and young peoples Plan (England) regulations 2005  Crime & disorder reduction strategy under S 5 & 6 of the Crime and Disorder Act 1998  Development plan documents under s15 of the Planning and Compulsory Purchase Act 2004  Licensing authority policy statement under s349 of the Gambling Act 2005  Local transport plan under s108(3) of the Transport Act 2000 Youth justice plan under s 40 of the Crime and Disorder Act 1998	Council meeting only

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	<p>Pay policy statement under s38 of the Localism Act 2011</p> <p>And additionally</p> <p>Corporate plan</p> <p>Economic development strategy</p> <ul style="list-style-type: none"> <li>• Budget</li> </ul> <p>Approve the a balanced Revenue Budget and specifically</p> <ul style="list-style-type: none"> <li>• Approve the Council Tax Base</li> <li>• Approve the rate of Council Tax and relevant precepts</li> <li>• Approve the Gross Revenue Budget</li> <li>• Approve the net spending limit for each major service element (Directorate)</li> </ul> <p>And in doing so adopt the following plans or strategies to support the delivery of council budget -</p> <ul style="list-style-type: none"> <li>• Revenue Budget for the next financial year</li> <li>• Capital Investment Budget for the next financial year</li> <li>• Medium Term Financial Strategy</li> <li>• Reserves Strategy</li> <li>• Statutory council tax calculations</li> <li>• Treasury Management Policy, Treasury Management Practices and prudential indicators including the Minimum Revenue Provision</li> </ul>	<p>Pay policy statement Monitoring officer, following consultation with the chief executive, to make in year technical updates to the statement to reflect changes to post holder details or approved changes to local or national pay policy</p>
	<p>Amending these budget and policy framework can be executive if council agree see 2000/2853 reg 4 a (ii) which requires a specific delegation per adoption</p>	<p>When approving a policy or strategy Council will specify the degree of in-year changes to the document which may be undertaken by Cabinet</p>
	<p>Approving or amending any application to the secretary of state in respect of any <u>housing land transfer</u></p>	<p>Council meeting only</p>

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Consider the review of the effectiveness of the system of internal control required and approve the annual governance statement	Audit and Governance committee
	Subject to the urgency procedure in the <u>access to information rules</u> , making a decision contrary to the policy framework or the budget, or part of it	Council meeting only
	Electing the chairman of council	Council meeting only
	Appointing the vice chairman of council, committee chairmen and committee vice-chairmen	Council meeting, Health and well being Board appoints vice chair
	Appointing the <u>leader of the council</u>	Council meeting only
	Setting the terms of reference of committees, deciding on their size, composition and allocating seats proportionately to political groups	Council meeting only
	The appointment by the authority of at least one independent person under the Localism Act 2011	Council meeting only
	Discharge of a council functions by another authority	Council meeting only
	Arrangements for joint exercise of council functions or a mix of council and executive functions	Council meeting
	Agreeing the <u>members' allowances scheme</u>	Council meeting only
	Functions relating to name and status of Herefordshire council or parish councils within the county as listed in schedule 1 section E of the regulations	Council meeting only
	Functions relating to community governance reviews as listed in schedule 1 section EB of the regulations	Council meeting only
	Confer title of honorary alderman or to admit to be an honorary freeman	Council meeting only
	Functions relating to town and country planning and development control as listed in schedule 1 section A of the regulations including enforcement	See appendix 1
	Powers relating to the protection of important hedgerows and preservation of trees	Chief executive
	Rights of way functions as listed in schedule 1 section I i of the regulations	chief executive
	Licensing and registration functions as listed in schedule 1 section B of the regulations	see appendix 1

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Functions relating to smoke free premises as listed in schedule 1 section FA of the regulations	/chief executive
	Health and safety at work enforcement functions as listed in schedule 1 section C of the regulations	Chief executive
	Elections functions as listed in schedule 1 section D of the regulations	Chief executive Employment panel for appointment of returning officer and electoral registration officer
	Make, amend, revoke, re enact or enforce byelaws	Council meeting
	Power to promote or oppose local or personal bills	Council meeting only
	Approval of the appointment of chief executive	Council meeting only
	Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	Chief executive for all staff other than those within the remit of the employment panel. Employment panel will also be a consultee for all terms and conditions (including policies) Employment panel for officers listed within their remit
	Approval of pay and severance packages in excess of £100,000	Council meeting only
	Duty to make arrangements for the proper administration of financial affairs	s.151 officer
	Power to appoint officers for particular purposes (otherwise called the appointment of proper officers)	chief executive
	Duty to designate posts to fulfil the functions of: the head of paid service, the monitoring officer, the s151 officer, statutory scrutiny officer, and to provide staff etc	Council meeting only
	To adopt revise or replace a members code of conduct	Council meeting only
	Power to make a limestone pavement order	chief executive
	Duty to approve the Council's statement of accounts, income and expenditure and balance sheet, or record of payments	Audit and governance committee
	Power to make closing order in respect to take away food shops	chief executive
	Permit a co-opted member of an overview and scrutiny committee to vote at meetings of the committee	Council meeting only
	Recruitment of panel members to Independent remuneration panel	solicitor to the council

	<b>Column 1 What is the council function</b>	<b>Column 2 Who can carry the function out</b>
	Powers relating to complaints about high hedges	chief executive
	Powers to make an order identifying a place as a designated public place in relation to alcohol consumption	chief executive
	Power to make or revoke an order designating a locality as an alcohol disorder zone	chief executive
	Power to apply for an enforcement order against unlawful works on common land	chief executive
	Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference including instituting proceedings	chief executive
	The appointment of a local auditor under Section 7 of the Council meeting only Local Audit and Accountability Act 2014	Council meeting only
	Power to make payments or provide other benefits in cases of maladministration	chief executive
	<p>Functions relating to pensions as listed in schedule 1 section H of the regulations</p> <p>All other matters which by law, must be the responsibility of the Council</p>	<p>Chief executive</p> <p>Council meeting only unless a specific delegation given from council.</p>

## Section 2 - Local Choice Functions

The table below details who has the responsibility for these functions and the delegation arrangements

### 3.4.1 Allocation of functions

These are functions which in law may be, but need not be the responsibility of the Cabinet and it is for full Council to decide by whom they shall be exercised. The local choice functions are for convenience listed in the table below and any changes to the local choice functions prescribed from time to time shall be taken to be incorporated below.

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
1 Any function under a local act other than a function specified or referred to in regulation 2 or schedule 1 of the Local authority (functions and responsibilities) (England) Regulations 2000.	Cabinet	In accordance with the cabinet delegation arrangements
2 The determination of an appeal against any decision made by or on behalf of the authority.	Cabinet	Chief executive
4 The making of arrangements in relation to appeals against the exclusion of pupils from maintained schools pursuant to section 52 of the Education Act 2002 and the subordinate legislation made under that section.	Cabinet	Chief executive
5 The making of arrangements pursuant to sections 94(1) (1A) and (4) of the 1998 School Standards and Framework Act (admissions appeals)	Cabinet	Chief executive
6 The making of arrangements pursuant to section 95(2) of, and schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).	Cabinet	Chief executive

<b>Column 1 What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2 Who has responsibility for the function</b>	<b>Column 3 Who has the function been delegated to?</b>
10 Any function relating to contaminated land.	Cabinet	Chief executive
11 The discharge of any function relating to the control of pollution or the management of air quality.	Cabinet	Chief executive
12 The service of an abatement notice in respect of a statutory nuisance.	Cabinet	Chief executive
13 The passing of a resolution that schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Cabinet	Chief executive
14 The inspection of the authority's area to detect any statutory nuisance.	Cabinet	Chief executive
15 The investigation of any complaint as to the existence of a statutory nuisance.	Cabinet	Chief executive
16 The obtaining of information under section 330 of the Town and Country Planning Act 1990.	Cabinet	Chief executive
17 The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Cabinet	Chief executive
18 The making of agreements for the execution of highways works.	Cabinet	Chief executive
19 The appointment of any individual (a) to any office other than an office in which he is employed by the authority; (b) to any body other than (i) the authority;	(a) Cabinet  (b & c) council where allocation of seats is politically proportionate (b & c) cabinet	(a) Chief executive  (b & c) Chief executive

<b>Column 1</b> <b>What is the function which may but need not be the responsibility of the executive</b>	<b>Column 2</b> <b>Who has responsibility for the function</b>	<b>Column 3</b> <b>Who has the function been delegated to?</b>
(ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body, and the revocation of any such appointment.		
20 The making of agreements with other local authorities for placing staff at the disposal of those other authorities	Cabinet	Chief executive



## Section 3 - Cabinet Functions

This section details the responsibilities of the cabinet and the delegation arrangements.

### 3.3.6 The leader

3.3.6.2 The leader of the council determines:

- a the size of the cabinet
- b the appointment of a deputy
- c the appointment of cabinet members
- d the appointment of cabinet support members
- e the appointment of champions
- f the allocation of portfolios and responsibility to cabinet members
- g the cabinet functions that can be carried out by cabinet members individually (paragraph 3.3.4.6)
- h the cabinet function that can be carried out by the chief executive (section 8 of this part)

where cabinet member portfolios cut across the various functions of the council and in cases of uncertainty as to which cabinet member is responsible for any function, the leader shall decide which cabinet member(s) will deal with it.

### 3.2 Cabinet functions

3.3.2.1 The cabinet shall make decisions in relation to all of the council's areas of responsibility other than those specified as:

- a Council functions, or
- b Overview and scrutiny functions
- c Functions cabinet has arranged to be exercised by or with another council's cabinet

Cabinet shall also formulate or prepare the documents consisting of the budget and policy framework and shall make recommendations to Council on their implementation.

In relation to the budget documents once the overall budget has been agreed at the beginning of the year by full council, subsequent decisions of cabinet that may impact on that budget need only be recommended back to full council:

- If the decision is likely to cause the authority's overall budget envelope to be exceeded,
- or • If it is contrary to the authority's borrowing or capital expenditure budget;

## Cabinet Meeting

A cabinet meeting will be convened for decisions that are:

- a key and relate to more than one cabinet portfolio
- b of sufficient public interest that a decision at a public meeting is required
- c reserved to cabinet by virtue of the financial procedure rules (see part 4 section 7).

### 3.3.4 Delegation of cabinet functions

- 3.3.4.1 The leader has decided to delegate to individual cabinet members key decisions that relate to their portfolio. There are also certain decisions reserved to an individual cabinet member by virtue of the financial procedure rules (part 4 section 7)

A cabinet member cannot take a decision contrary to the advice of the chief executive, monitoring officer, s.151 officer or relevant director(s) such a decision must be referred to a cabinet meeting.

- 3.3.4.4 The leader has decided to delegate to the chief executive all functions that fall outside the definitions above. The chief executive can only take non key decisions under this general delegation. Key decisions can only be taken by the chief executive following a specific decision containing an officer delegation. The monitoring officer is responsible for consulting with the leader and if applicable, the relevant cabinet member to assist the leader in determining whether any matter is one that should be determined at a cabinet meeting, an individual cabinet member or by the chief executive.

### 3.3.5 Key decisions

- 3.3.5.1 A key decision is a decision:-

taken at a cabinet meeting, by an individual cabinet member, or a joint committee of the executive;

and is:

- i Any decision in relation to an executive function which results in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned.

A threshold of £500,000 is regarded as significant.

- ii Any other executive decision which in the opinion of the monitoring officer is likely to be significant having regard to
  - the strategic nature of the decision and or

- whether the outcome will have an impact, for a better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected.
- iii Any substantive decision to bring forward proposals to Council to approve or amend an item within the budget and policy framework (not being subject to call-in).
- iv Any substantive decision made to approve or amend a policy framework where Council has granted the executive power to do so (being subject to call-in)

## Section 4 - Overview and Scrutiny Functions

The council is required to appoint one or more overview and scrutiny committee. This section details those arrangements.

### 3.4.1 Scrutiny functions

The committees have the power;

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,

(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,

(c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,

(d) to make reports or recommendations to council or the cabinet with respect to the discharge of any functions which are not the responsibility of the executive,

(e) to make reports or recommendations to council or the cabinet on matters which affect the authority's area or the inhabitants of that area

(f) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and to make reports or recommendations to the council with respect to the discharge of those functions. In this regard crime and disorder functions means (a) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and (b) a strategy for combatting the misuse of drugs, alcohol and other substances in the area; and (c) a strategy for the reduction of re-offending in the area

(g) to review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and make reports and recommendations to a responsible person on any matter it has reviewed or scrutinised. In this regard *health service* includes services designed to secure improvement—

(a) in the physical and mental health of the people of England, and

(b) in the prevention, diagnosis and treatment of physical and mental illness

And any services provided in pursuance of arrangements under section 75 in relation to the exercise of health-related functions of a local authority.

(h) to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area

### Scrutiny rules

3.5.1.1 When the overview and scrutiny committees are exercising overview and scrutiny functions the scrutiny rules in part 4 section 5 must be followed.

## Section 5 - Other functions

This section contains a description of the committees who have functions delegated to them by Council.

Those functions are those carried out as follows:

- Town and country planning, development control (the planning functions) and licensing functions
- Audit and governance functions
- Standards panel functions
- Employment functions
- Health and wellbeing board

### **3.6.1 Planning and regulatory committee**

3.6.1.2 When the committee carries out its planning functions it will follow the planning rules (part 4 section 8) and the planning code (part 5 section 12)

3.6.1.3 The committee functions are detailed in appendix one to the council functions scheme.

The committee will determine applications for planning permission and listed building consent in those cases where:

- a the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- b the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- c the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- d the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- e the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- f the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature that a planning

committee determination of the matter would represent the most appropriate course of action, or

- g in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

### **3.6.2 Licensing functions**

- 3.6.2.1 The functions of the licensing authority (contained in appendix 1) are to be taken or carried out by the licensing sub committee. The licensing sub committee has delegated some of these functions to the chief executive as also detailed in appendix 1.

The licensing sub committee determines the following;

Applications for personal licences (if police objection);

Applications for personal licences with unspent convictions;

Applications for premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);

Applications for provisional statements (if relevant representation are made as specified in the Licensing Act 2003);

Applications to vary premises licences/club premises certificates (if relevant representation are made as specified in the Licensing Act 2003);

Applications to vary designated premises supervisor (if police objection);

Requests to be removed as a designated premises supervisor

Applications for transfer of premises licence (if police objection);

Applications for interim authorities (if police objection);

Applications to review premises licences/club premises certificate;

Deciding whether to object when the authority is a consultee and not the relevant authority considering an application;

Determination of objections to temporary event notices;

Determination of application to vary premises licence at community premises to include alternative licence condition (if police objection)

Revocations of licences where convictions come to light

### **3.6.3 Audit and governance functions**

The purpose of an audit committee is to provide independent assurance on the adequacy of the risk management framework together, the internal control of the financial reporting and annual governance processes.

**Internal Audit**

- To consider the Head of Internal Audit's annual report and opinion, and a summary of internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.
- To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary..
- To consider reports dealing with the management and performance of the providers of Internal Audit Services.
- To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.
- To be able to call senior officers and appropriate members to account for relevant issues within the remit of the Committee.
- The Committee will not receive detailed information on investigations relating to individuals. The general governance principles and control issues may be discussed, in confidential session if applicable, at an appropriate time, to protect the identity of individuals and so as not to prejudice any action being taken by the Council.

**External Audit**

- Review and agree the External Auditors annual plan, including the annual audit Fee and annual letter and receive regular update reports on progress.
- To consider specific reports from the External Auditor
- To meet privately with the external auditor once a year if required
- To comment on the scope and depth of external audit work and to ensure it gives value for money.
- To recommend appointment of the Council's local (external) auditor
- Ensure that there are effective relationships between external and internal audit that the value of the combined internal and external audit process is maximised.

**Governance**

- To maintain an overview of the Council's Constitution and recommend any changes to council other than changes to the contract procedure rules, finance procedure rules which have been delegated to the committee for adoption.
  - To monitor the effective development and operation of risk management and corporate governance in the Council.
  - To maintain an overview and agree changes to the council policies on 'Raising Concerns at Work' and the 'Anti fraud and corruption strategy'.
  - To oversee the production of the authority's Statement on Internal Control and to recommend its adoption.
- To annually conduct a review of the effectiveness of the council's governance process and system of internal control which will inform the Annual Governance statement
- The Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance.
  - To annually review the council's information governance requirements
  - To agree the annual governance statement (which includes an annual review of the effectiveness of partnership arrangements together with monitoring officer, s151 officer, caldicott guardian and equality and compliance manager reviews).
  - To adopt an audit and governance code

**Waste contract**

- to review, in conjunction with external advisers advising the council as lender, the risks being borne as a result of the funding provided by the council to Mercia Waste Management Ltd and consider whether the risks being borne by the council, as lender, are reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice.
- to monitor the administration of the loan to the waste project in line with best banking practice having regard to any such external advice, including the terms of any waivers or amendments which may be required or are desirable.
- consider what steps should be taken to protect the interests of the council as lender in the event of a default or breach of covenant by Mercia Waste Management Ltd, and make recommendations as appropriate to Council, the council's statutory officers or cabinet as appropriate to ensure the appropriate enforcement of security and litigation in relation to the loan to Mercia Waste Management Ltd.
- consider and recommend appropriate courses of action to protect the position of the council as lender to the waste project.
  - a make recommendations as appropriate to Council with regard to its budget and policy framework and the loan to the waste project.
  - b generally to take such other steps in relation to the loan within the scope of these terms of reference as the committee considers to be appropriate.

**Code of conduct**

- To promote and maintain high standards of conduct by members and co-opted members of the Council.
- To support Town and Parish Councils within the county to promote and maintain high standards of conduct by members and co-opted members of the Council.
- To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Council.
- To keep the code of conduct under review and recommend changes/replacement to Council as appropriate.
- To publicise the adoption, revision or replacement of the Council's Code of Conduct.
- To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment.
- To annually review code of conduct complaints
- To grant dispensations under Section 33 (2)(b)(d) and (e) Localism Act 2011 or any subsequent amendment
- To hear appeals in relation to dispensations granted under section 33 (2)(a) and (c) Localism Act 2011 by the monitoring officer
- To decide what action to take on the recommendations from the standards panel referred by the standards panel

**Accounts**

- To review and approve the Statement of Accounts, external auditor's opinion and reports on them and monitor management action in response to the issues raised by external audit.



### **3.6.4 Standards Panel**

Council has agreed that the arrangements for determining breaches of the code of conduct for members will include, where the matter cannot be resolved informally, the consideration of the complaint by this panel.

The function of the panel is to consider submissions made either in person or in writing by the complainant, the subject member and the Monitoring Officer and produce a report.

### **3.6.5 Employment functions**

- 3.6.5.1 Council has agreed that an employment panel be established and will fulfil the following functions:
- a) Be the appropriate body to fulfil the employment functions as set out in part 4.9 of the procedure rules in relation to: the head of paid service (to include returning officer and electoral registration officer functions), director for adults and wellbeing, director of children's wellbeing; director for economy, communities and corporate, director of public health, monitoring officer and s151 officer.
  - b) Review the annual pay policy statement and make recommendations to Council
  - c) As a consultee on all terms and conditions including policies for all staff
  - d) The approval of the performance and development framework for annual assessment of the chief executive

### **3.6.6 Health and wellbeing board functions**

#### **The health and wellbeing board**

- 3.6.5.1 Herefordshire Council has established a health and wellbeing board in accordance with the provisions of the Health and Social Care Act 2012
- 3.6.5.2 The functions of the board are:
- Developing a joint strategic needs assessment (Understanding Herefordshire)
  - Preparing a joint health & wellbeing strategy
  - Reviewing whether the commissioning plans and arrangements for the NHS, public health and social care (including Better Care Fund submissions) are in line with and have given due regard to the health and wellbeing strategy
  - Reporting formally to the council's executive, the Herefordshire Clinical Commissioning Group and the NHS Commissioning Board if commissioning plans affecting Herefordshire have not had adequate regard to the health & wellbeing strategy
  - Formally signing-off required submissions and direct the use of any performance related funding received on achievement of targets

## Section 6 - Additional arrangements

### 3.7.1 Establishment of working groups

3.7.1.1 Council, the cabinet and any committee may from time to time establish working groups which include in their membership councillors and/or officers..

3.7.1.2 Working groups have no formal decision making responsibilities but may provide advice or recommendations

### 3.7.3 Independent remuneration panel

Before the council makes or amends a scheme for member's allowances, it shall have regard to the recommendations made in relation to it by an independent remuneration panel. This panel comprises of at least three members none of whom–

- (a) is also a member of an authority in respect of which it makes recommendations or is a member of a committee or sub-committee of such an authority; or
- (b) is disqualified 1 from being or becoming a member of an authority

The independent remuneration panel shall produce a report;

(a) as to the responsibilities or duties in respect of which the following should be available–

- (i) special responsibility allowance;
- (ii) travelling and subsistence allowance; and
- (iii) co-optees' allowance;

(b) as to the amount of such allowances and as to the amount of basic allowance;

(c) as to whether dependants' carers' allowance should be payable to members of an authority, and as to the amount of such an allowance;

(d) as to whether, in the event that the scheme is amended at any time so as to affect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated);

(e) as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed;

(f) as to which members of an authority are to be entitled to pensions in accordance with a scheme; and

(g) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable in accordance with a scheme made under section 7 of the Superannuation Act 1972.

The report will be published and considered at a council meeting when deciding the scheme of allowances.

### **Political management**

3.7.5.1 The council comprises councillors who may be members of political or other groups, as referred to in article 2 (2.2.10). Those groups are an important part of the way the council operates and are formally recognised in the appointment of committees. The leader of the council, who is elected by Council, is usually from the political group comprising the majority of councillors and the leader usually appoints members from their political group to be cabinet members.

3.7.5.2 Each political group appoints a group leader. The group leaders have an important informal role to play in relation to the functions scheme. This role is separate and distinct from any role or function that any councillor who is a leader of a political group has under the functions scheme. Other than those functions allocated to any political group leader under the functions scheme, the political group leaders have no authority to take decisions on behalf of the council but do fulfil important informal political management functions.

3.7.5.3 In particular, the political group leaders have the following roles:

- a to provide leadership to the respective groups on all matters related to council business
- b to act as a link between the political and other groups and to meet regularly with other group leaders to discuss matters relating to the political management of the council
- c to ensure that the views of his or her group are made known to Council, the cabinet and the chief executive
- d to help identify whether there is any consensus or other ways that the groups can work together on matters related to Council functions
- e to attend Council and other meetings as set out in the constitution as a recognised group leader for the purpose of fulfilling these functions.

### **3.7.6 Champions**

3.7.6.1 The leader of the council may from time appoint individual councillors or other individuals to champion a particular issue within the council, with its partners, in communities, across the council, regionally or nationally.

3.7.6.2 Such appointments will be made following consultation with political group leaders and the chief executive.

3.7.6.3 Such champions shall have no formal decision making power and shall not take or purport to take any decisions on behalf of the council.

## Section 7 - Officer Functions

The intention of the Council is that decision taking should be delegated in the interests of speed where that is consistent with the democratic process in terms of accountability and openness.

The various levels of decision making are:-

Council – Committees – delegations to officers.

Leader - Cabinet (either collectively or by individual Cabinet member) – delegations to officers.

A purpose of this Constitution is to encourage delegation of decision making to individual officers. This constitution delegates decisions to the chief executive. Where such decisions have been delegated it remains open to the officer making the delegation to call back for their own decision, issues of significance or sensitivity and for the decision maker to refer matters upwards for determination.

The chief executive has the ability to take six types of decisions.

### 1. Operational decisions.

An operational decision involves the day to day management of the council. They are usually incidental to a function being exercised by the council. Such decisions are taken by the chief executive, in accordance with the scheme of delegation and any financial or contracting requirements specified in the finance or contracts procedure rules and will be classed as operational so long as :

- Is within an approved budget;
- Is not in conflict with the council's policies, strategies or relevant service plans
- Does not amend existing or raise new policy issues

Such operational decisions will not be recorded unless they relate to:

- The letting of contracts with a value (over the lifetime of the contract) of £50k or more
- The disposal of land or assets with a value of £50k or more
- The granting or revoking of a permission or license
- A change to an individual's legal rights
- A change to a service (eg opening hours, location or service level)

### 2. Executive decisions.

The cabinet has delegated non key decisions to the chief executive. These will be decisions concerning a function being exercised by the council which is below the key decision threshold. As these are executive functions the requirements to publish the decision, reports and call in provisions apply.

### 3. Council decisions

The council has decided that some of its decision can be taken by the chief executive. Where the effect of the decision is to grant a permission or licence; changes the legal rights of an individual; or awards a contract (above £50k) or incurs expenditure (£50k) which in either case materially affects the Council's financial position there is a requirement to publish the decision.

4. Local choice decisions  
The council has delegated certain further functions to the chief executive. As a result these become executive or council decisions and will follow the procedures for those type of decisions.
5. All necessary decisions in cases of emergency.  
For the purposes of this scheme, 'emergency' shall mean any situation in which the chief executive believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual, or that the interests of the council may be compromised. 'All necessary decisions' includes decisions to take such action as is necessary within the law to protect life, health, safety, the economic, social or environmental wellbeing of the county, its communities and individuals living, working or visiting, and to preserve property belonging to the council or others;
6. Implementing decisions  
There is implied authority for the chief executive to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary. There will also be express authority within certain decisions, delegating further decisions to a named officer, usually a Director, to take certain actions within the parameters of the recommendation from Council, Committee or Cabinet decisions.

All of these six types of decisions can be taken by the chief executive without consultation with elected members, however where executive decisions are being taken by officers cabinet members are normally briefed by a director before taking the decision as the cabinet member can decide to take the decision themselves.

The chief executive is unable to make all of these decisions on behalf of the council and therefore he has a sub delegation scheme which provides for his decision to be taken by a senior officer.

- 3.8.7 Any officer of the council who has been authorised by the chief executive to carry out any of the chief executive's functions of the council may delegate those functions to other officers. In the case of executive decisions, it is not appropriate for those delegations to be given to any officer below the level of assistant director in the organisation structure.
- 3.8.8 The chief executive will maintain a chief executive's scheme of delegation detailing all relevant delegations, including the delegation of any proper officer functions as required in a number of statutes and statutory provisions relating to the functions of the council which require that one of the council's officers is the "proper officer" for the purposes of that statutory provision.
- 3.9.2 The council designates the chief executive as its proper officer for all such purposes other than the s151 officer, monitoring officer and scrutiny officer and unless otherwise stated where the chief executive has delegated the responsibility for fulfilling any proper officer function to another officer.
- 3.8.9 The chief executive's scheme of delegation will be regularly reviewed and updated to ensure that it contains all relevant delegations.

3.8.10 The chief executive's scheme of delegation will be published on the council's website.