

## Part 2 - Responsibility for functions

### b. council bodies

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All committees shall have the following general powers within their terms of reference:

- To authorise, order and manage contracts for goods and services within approved budgets and subject to financial and contract procedure rules (letting and management of contracts delegated to officers)
- To institute legal proceedings including proceedings for an injunction, to authorise the carrying out of works in default of a notice and to lodge an appeal against any court decision (this may be delegated to officers)
- To manage services within approved budgets according to financial procedure rules (management of services is delegated to officers)
- To meet more or less frequently than is laid down in the calendar of meetings
- To monitor service objectives and targets, programmes and strategies for the services within the terms of reference of each committee and in conjunction with the Executive (delegated to officers, with exception reporting to relevant committee).

#### 1. Council

Whilst the majority of decisions can be taken by the Executive, by law the functions of budget and council tax setting, the strategic plan framework, planning and licensing, elections, staffing, bylaws and local legislation can only be carried out by Council.

The following functions are reserved for Council, and cannot be the responsibility of the Executive. Unless otherwise stated, these will not be delegated to another council body or officer:

- 1.1 Adopting and amending the constitution including procedure rules
- 1.2 Approving or adopting the policy framework, including the following:
  - Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and section 32 of the Local Government Act 2000:
    - Corporate Plan
    - Performance Plan

Borough Community Plan (developed by the Local Strategic Partnership)  
Community Safety Strategy  
Local Plan (including Supplementary Planning Documents)  
Licensing policies.

- Other plans, policies and strategies that the Council chooses to be its responsibility.
- Decisions contrary to or not wholly in accordance with the policy framework are the responsibility of Council, subject to the urgency procedure contained in relevant part of this constitution

1.3 The budget, including:

- The allocation of financial resources to different services and projects
- Setting the council tax
- Decisions relating to control of the council's borrowing requirements
- Control of capital expenditure
- Setting of delegation and virement limits (financial procedure rules)
- Medium Term Financial Strategy
- Treasury management, including approving the annual strategy
- Approval of fees & charges for non-Executive functions
- Decisions contrary to or not wholly in accordance with the budget are the responsibility of Council, subject to the urgency procedure contained in the relevant part of this constitution

1.4 Housing land transfer (approval or adoption of applications to the Secretary of State for approval of a programme of disposal of 500 or more properties)

1.5 Planning issues:

- Approval of supplementary planning guidance and informal policy statements on recommendation of the Planning Policy Working Group
- Approval for proceeding to referendum stage and for making of Neighbourhood Development Plans
- Making Simplified Planning Zones
- Duties in relation to conservation areas not otherwise delegated.

1.6 The licensing function

- Setting hackney carriage and other fees and charges
- Approval of licensing policies

1.7 Appointments

- Appointing the Leader
- Electing the Mayor and Deputy Mayor
- Appointing representatives to outside bodies, unless the appointment is an Executive function or has been delegated by Council
- Making appointments to joint committees (except for Executive functions)

1.8 Agreeing and/or amending the terms of reference for committees, deciding on their composition, and making appointments to them annually (in-year amendments to membership are delegated to the Chief Executive)

1.9 Adopting the Members' Allowance Scheme (on the recommendation of the Independent Remuneration Panel)

1.10 Adopting the Members' Code of Conduct and associated protocols

- 1.11 Changing the name of the area, conferring the title of honorary alderman or freedom of the borough
- 1.12 Giving consideration to matters relating to electoral boundaries, number of councillors and local government restructuring and making any decisions where appropriate
- 1.13 Staffing
- Approval of the corporate management structure of the council at director level and above
  - Confirming the appointment or dismissal of and disciplinary action against the Head of Paid Service, Monitoring Officer and Section 151 Officer
  - Approving job descriptions/person specifications for the Chief Executive, directors and those holding statutory accountabilities and confirming the appointment of the Chief Executive, directors and statutory officers
  - Approving the pay policy statement
  - Placing staff at the disposal of other local authorities for the purpose of joint arrangements or joint working for non-Executive functions in accordance with 13(4) and 13(5) of the Local Government Act 2000.
- 1.14 Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal bills
- 1.15 Making of compulsory purchase orders
- 1.16 All local choice functions which Council decides should be undertaken by itself rather than the Executive, including functions under the Leicestershire Act 1985 (these are delegated to officers and outlined in the following section of this constitution)
- 1.17 Appeals against decisions of Council bodies or officers (may be delegated to the Appeals Panel)
- 1.18 Making orders relating to car parks or other off-street parking
- 1.19 Making a demolition order under the Housing Act 1985
- 1.20 Declaring the area in which the premises concerned are situation to be a clearance area under the Housing Act 1985
- 1.21 Introducing additional or selective licensing in relation to Houses in Multiple Occupation
- 1.22 All other matters which must, by law, be reserved to Council.
2. Appeals Panel – terms of reference
- 2.1 Membership and procedure of the Appeals Panel

The Appeals Panel will consist of 12 members of the council, of which three will be called for a meeting of the Panel, with one reserve. These may not be members who were involved in the making of the original decision which is the subject of the appeal. Only other members of the Appeals Panel may sit as substitutes at the meetings.

Meetings will be conducted in accordance with the council procedure rules contained within this constitution, where applicable.

## 2.2 Functions of the Appeals Panel include, but are not limited to:

Considering any non-statutory or other appeal against a decision taken by any committee of the council or the Executive or an officer including:

Staffing:

- To hear employee appeals against a warning or dismissal not including appeals against the receipt of a warning or dismissal of an employee below director level unless it is a dismissal for gross misconduct or some other substantial reason
- To hear employee appeals against determination of individual grading issues and job evaluation for director level employees and above and those holding statutory accountabilities
- To hear appeals against any decision relating to the appointment of another person as an employee of the council

Other:

- Appeals against decisions made under part VI of the Housing Act 1996 as amended, in relation to homelessness and housing allocations, including introductory tenancy review decisions
- To hear any other appeals to any decision made by or on behalf of the authority, where authority exists.

## 3. Audit Committee – terms of reference

### 3.1 Membership and procedure of the Audit Committee

The Audit Committee will consist of 11 councillors including the Chairman of the Scrutiny Commission but not including members of the Executive. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

### 3.2 The functions of the Audit Committee include, but are not limited to:

- Approving the Annual Governance Statement and Statement of Accounts
- Approving the external auditor's annual letter
- Approving the internal audit plan and monitoring progress
- Overseeing audits and monitoring compliance with recommendations
- Monitoring the risk management framework and providing assurance
- Monitoring the counter-fraud strategy.

## 4. Ethical Governance & Personnel Committee – terms of reference

### 4.1 Membership and procedure of the Ethical Governance & Personnel Committee

The Ethical Governance & Personnel Committee will consist of nine members of the council, including a minimum of one member of the Executive. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

### 4.2 The functions and responsibilities of the committee include, but are not limited to:

Ethical Governance functions:

- Promoting and maintaining high standards of conduct by councillors, co-opted members and parish councillors

- Assisting councillors, co-opted members and parish councillors to observe the Members' Code of Conduct
- Advising Council on the adoption or revision of the Members' Code of Conduct and protocols for members and/or employees
- Monitoring the operation of the Members' Code of Conduct
- Advising, training or arranging to train councillors, co-opted members and parish councillors on matters relating to the Members' Code of Conduct
- Determining complaints about councillors
- Reviewing the members' and officers' register of interests
- Reviewing the council's corporate complaints procedures
- Maintaining an overview of Local Government Ombudsman investigations
- Dealing with dispensations in relation to politically restricted posts and granting dispensations to employees from political restrictions.

Personnel functions:

- Approval, adoption, amendment and administering the council's HR policies, providing there is no conflict with other strategies and they are not matters reserved for Council
- Approving codes of conduct in support of personnel policies
- Liaising with the Executive in HR policy development
- Appointing an independent person for the purposes of investigation of alleged misconduct by those officers holding statutory accountabilities and making recommendations to Council in relation to disciplinary and dismissal of those officers in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015
- Agreeing voluntary severance arrangements for the Chief Executive
- Considering and approving issues relating to the local government pension scheme
- Using the power of section 13(4) and 13(5) of the Local Government Act 2000 to place staff at the disposal of other local authorities for the purpose of joint arrangements or joint working for non-executive functions (authority to act in emergencies is delegated to officers)
- Monitoring staffing information reports
- Receiving minutes of and recommendations from the Staff Safety Group.

## 5. Hinckley Area Committee

### 5.1 Membership and procedure of Hinckley Area Committee

Hinckley Area Committee will consist of the ten members for the Hinckley wards of Castle, Clarendon, De Montfort and Trinity. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

### 5.2 The functions and responsibilities of the committee include, but are not limited to:

- Making recommendations to Council in relation to the budget requirements of the committee
- Considering the scale of fees and charges relating to the special expenses area of Hinckley
- Considering and making proposals in relation to the management, maintenance, acquisition or disposal of assets falling exclusively within the special expenses area
- Dealing with any business specifically delegated to the committee from time to time by Council or the Executive.

## 6. Licensing Committee

### 6.1 Membership and procedure of the Licensing Committee

The Licensing Committee will consist of eleven members. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable. The Licensing Committee is also authorised to create sub committees to carry out its functions.

Members of the Licensing Committee and their substitutes must undertake training relating to the functions of the committee within three months of being appointed (unless they have already undertaken training offered) and must also undertake refresher training when provided.

### 6.2 The functions and responsibilities of the Licensing Committee include, but are not limited to:

- Undertaking duties of Council as Licensing Authority for duties under the Licensing Act 2003, including the following which will be exercised by a sub-committee of the Licensing Committee:
  - Granting of provision statement (S29) where relevant representation received
  - Determining applications to vary premises licences (S34) / club premises certificate (S37) where relevant representation received
  - Determining variations of designated premises supervisor (S37) where police objection received
  - Determining applications to transfer premises licences where police objection received
  - Determining applications to review premises licences (S51) / club premises certificate (S87)
  - Determining applications for temporary events notices (S105) where police objection received
  - Deciding whether to object when local authority is a consultee (and not the relevant authority determining the application)
  - Determining applications for a personal licence (S117) where police objection received
  - Determining applications for a personal licence with unspent convictions (S118)
  - Determining applications for a premises licence (S17)/club premises certificate (S71) where relevant representation received
  - Determining applications to vary a premises licence at community premises to include alternative licence condition where police objection received
- Undertaking duties of Council as Licensing Authority for duties under the Gambling Act 2005 including
  - Fee setting
  - Refusal or cancellation of club gaming / club machine permit
  - Temporary use notice counter-notice (S224)
- Determining applications for private hire and hackney carriage drivers licences where applicant has previous convictions, cautions or medical issues or where soft information is received (delegated to a sub-committee of three members of the Licensing Committee)
- Determining applications for the granting, renewal, variation or transfer of sexual entertainment venue licences irrespective of whether objections have been received
- Granting or varying sex shop or sex cinema licences irrespective of whether objections have been received
- Renewal or transfer of sex shop or sex cinema licences where objections have been received.

## 7. Licensing (Regulatory) Committee

### 7.1 Membership and procedure of the Licensing (Regulatory) Committee

The Licensing (Regulatory) Committee will consist of eleven members made up of the same membership as the Licensing Committee. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

Members of the Licensing (Regulatory) Committee and their substitutes must undertake training relating to the functions of the committee within three months of being appointed (unless they have already undertaken training offered) and must also undertake refresher training when provided.

### 7.2 The functions and responsibilities of the Licensing (Regulatory) Committee include, but are not limited to:

- Undertaking duties of Council as the regulatory authority for environmental health, waste collection and finance authority
- Licensing and registration functions including (but not limited to) taxi and private hire vehicles, small lotteries and amusements, street collections, gaming, gaming machines and street trading consents in accordance with legislation where not otherwise delegated to an officer
- Authorising registration of special sites under section 78(c) and remediation of contaminated sites under section 78(e) of part IIA of the Environmental Protection Act 1990 and subordinate legislation
- Refusing permits under the Pollution, Prevention and Control Act 1999, Part 4 of the Environment Act 1995, Part 1 of the Environmental Protection Act 1990, the Clean Air Act 1993 and regulations made thereunder
- Approving designated air quality management areas under section 83 of the Environment Act 1995
- Passing a resolution that section 2 of the Noise and Statutory Nuisance Act 1993 (section 8) should apply to the authority's area.

## 8. Planning Committee

### 8.1 Membership and procedure of the Planning Committee

The Planning Committee will consist of 17 members of Council chosen to represent as closely as possible the political and geographical balance of Council. The committee will not include the executive member with responsibility for development services, but can include other executive members. Council will approve a list of members who may substitute on the Planning Committee. Meetings will be conducted in accordance with the procedure rules contained within this constitution, where applicable.

Members of the Planning Committee and their substitutes must undertake training relating to the functions of the committee within three months of being appointed (unless they have already undertaken training offered) and must also undertake refresher training when provided.

### 8.2 The functions and responsibilities of the Planning Committee include, but are not limited to:

- Considering amendments to the application of Local Plan policy documents
- Determining the following types of planning applications:

- An application that has received written comments from occupiers of five or more addresses (including the parish council), the views of which are contrary to the officer recommendation
- An application where a member of Council requests in writing to the Head of Planning that the application be referred to Planning Committee for determination. The request must be received within 21 days of publication of the weekly list and based on sound planning reasons as determined by the Head of Planning
- An application that the Head of Planning, in discussion with the chairman of the Planning Committee, considers necessary to be determined by the Planning Committee

The exceptions to the above are the following application types:

- All tree preservation order applications (including those within a conservation area)
- Certificates of lawful use (existing and proposed)
- Prior notification of proposed development by telecommunications code system operators
- General development order permitted development prior notification applications
- County council matters
- Neighbouring authority consultations
- Non material amendments.
- Determining a major application that is submitted by, or on behalf of, the borough council for its own development
- Determining any application made by, or on behalf of, a member of the borough council or an employee of the authority
- Determining applications where a parish or town council has made representations which meet the following criteria:
  - The observations are received within 21 days of publication of the weekly list
  - The observations refer to relevant material planning considerations
  - The observations are substantial in nature and raise novel or important issues which, in the opinion of the Head of Planning, should be properly brought to the attention of the Planning Committee
  - The observations, if accepted, would result in a determination contrary to the opinion of the Head of Planning (or officer with authority delegated by the Head of Planning) that the application should be approved
  - The observations do not relate to householder applications.