

Schedule 3

Responsibility for Executive Functions

A3 APPENDIX H

EXECUTIVE FUNCTIONS ARE THE RESPONSIBILITY OF THE CABINET.

1. ROLE AND RESPONSIBILITIES

1. The general roles and responsibilities of the Cabinet are as follows:-

- (i) To make recommendations to the District Council with regard to the formulation of its policy framework, including the setting of the budget and council tax levels.
- (ii) To advise the District Council on all matters requiring a decision outside of the Council's agreed budget and policy framework.
- (iii) To discharge in accordance with the District Council's policy framework all functions of the Council, except those functions which cannot, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and other legislation, be the responsibility of the Cabinet. Such functions are the responsibility of the Council and its various Committees as set out in Schedule 2 to Part 3 of the Constitution.
- (iv) To deal with those "local choice functions" which have been delegated to the Cabinet by the Council as detailed in Schedule 1 of Part 3 of the Constitution.

2. RESPONSIBILITIES OF THE LEADER OF THE COUNCIL

1. The Leader of the Council is responsible for the overall operation of the Council's portfolios through effective management of their Cabinet.
2. To ensure effective communication of Cabinet business including appropriate liaison with Overview and Scrutiny.
3. To be the leading voice of the Council on all executive functions and for overall policy.
4. To be the member representative for executive functions of the Council working with the Council's partners and stakeholders, on statutory bodies, the voluntary sector, the business community and other national and local organisations.
5. Ensure that their actions are taken in accordance with Section 3 below when making formal decisions.

3. GENERAL PRINCIPLES REGARDING DECISION MAKING BY THE CABINET

1. The Leader of the Council is responsible for approving the delegation of executive functions to either:
 - (i) The Cabinet collectively (see 4.1 below);
 - (ii) An individual Member of the Cabinet (Portfolio Holder) (see 4.2 below);

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- (iii) A Working Party of the Cabinet (known as a Portfolio Holder Working Party);
- (iv) An Officer, in consultation with the relevant Portfolio Holder(s); or
- (v) An Officer.

Executive functions can also be delegated to, and discharged by an area committee or another local authority or jointly with one or more local authorities.

No Member or Committee of the Cabinet to whom the Leader of the Council has delegated a function may delegate on to another Member or Committee.

2. Powers and duties of the Cabinet and Portfolio Holders under their delegated authorisation must be:-

- (i) performed on behalf of and in the name of the Council;
- (ii) subject to the directions of the Council and of the Cabinet as appropriate;
- (iii) subject to powers and duties reserved for confirmation by the Council as set out in Article 4 of the Constitution;
- (iv) within the limits of the Council's approved policy framework and budget;
- (v) statutory provisions and restrictions;
- (vi) taking into account Officer's advice; and
- (vii) in accordance with the Council's approved Policies, Procedures, Protocols and Codes of Conduct.

3. Absence of the Leader of the Council:

The Portfolio Holder designated by the Leader as their Deputy may exercise the functions of the Leader of the Council in the absence of the Leader.

4. The Leader of the Council may exercise any of the powers delegated to the Cabinet:

- a. Following a resolution of the Cabinet (subject to the Constitution), or
- b. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer.

In cases of urgency the decision of the Leader of the Council will be recorded and published in accordance with the Constitution. The Leader of the Council will also be required to make a public statement to the next formal meeting of the Cabinet which will explain why they had taken the decision as a matter of urgency.

5. The Leader of the Council may exercise any of the powers delegated to a Portfolio Holder:

- a. In their absence
- b. At their request
- c. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151 Officer, or
- d. As the Leader so determines.

6. Where decisions are taken by individual Portfolio Holders under delegated powers the following principles and decisions shall apply:

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- (a) All delegations to Portfolio Holders will be exercised after consultation and written advice from all relevant Officers.
 - (b) In cases where there is a significant difference of opinion between Portfolio Holders, the issue will be referred to the Leader of the Council in consultation with the Chief Executive and if necessary to the Cabinet for decision.
 - (c) The exercise of delegations by Portfolio Holders shall be within the Scheme of Delegated Powers of the Portfolio Holders.
 - (d) A Portfolio Holder shall not delegate any powers to an Officer unless such delegation is approved by the Leader of the Council.
 - (e) A Portfolio Holder may, if they consider it appropriate, elect to refer up to the Cabinet, the exercise of any power delegated to them.
7. In cases where there is an overlap in responsibilities between Portfolio Holders, the Leader Of the Council shall determine which Portfolio Holder(s) should make the decision.
 8. The Monitoring Officer shall in any case of uncertainty and after having considered relevant legislation, determine whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council.
 9. A record of Portfolio Holder decisions shall be maintained and published, as set out in Article 7 of the Constitution.
 10. In the event of a change to the delegations of Executive Functions by the Leader or to the corporate structure of the Council by the Chief Executive, the changes will take immediate effect. The relevant amendments to this scheme of delegation should be made in the Constitution as soon as practicable.

4.1 THE CABINET COLLECTIVELY

The following details the broad principles of issues that are the responsibility of the Cabinet and which shall be considered by the Cabinet collectively at public meetings:

TERMS OF REFERENCE

To be responsible for Community Leadership for the District of Tendring. To lead the preparation of the District Council's policies and budget. To take decisions on resources and priorities together with other stakeholders and community partners as appropriate, and to deliver and implement the budget and policies decided by full Council. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

1. Developing and making recommendations to the Council in respect of the plans and strategies that form the Council's policy framework.
2. Formulations of budgets and other statutory financial requirements for submission to Council.
3. Monitoring the Council's budgetary and overall financial position.

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4. Decisions as required by the Council's Financial and Procurement Procedure Rules including transactions in respect of the Final Accounts.
5. Decisions outside of the Budget or Policy Framework in accordance with the Procedure Rules.
6. The approval of strategies, policies, plans and guidance which are the responsibility of Cabinet and are not delegated elsewhere within the Constitution.
7. Consideration and approval of the acquisition and disposal of property in accordance with the Property Dealing Procedure, legislation and specific consents.
8. Consideration, approval and determination of objections, under Section 123 of the Local Government Act 1972, received in respect of proposed disposals of land used as public open space. All such consideration and determination to be at a public meeting of the Cabinet.
9. Power to consider objections received and then determine proposed Traffic Regulation Orders under the Road Traffic Regulations Act 1984 (as amended). All such objections to be determined at a public meeting of the Cabinet.
10. Issues delegated to individual Portfolio Holders that in their opinion a collective decision by the Cabinet is required.
11. Issued delegated to an Officer that in the opinion of the Management Team a collective decision by the Cabinet is required.
12. Reviewing from time to time the Council's Constitution.

4.2 INDIVIDUAL MEMBERS OF THE CABINET (PORTFOLIO HOLDERS)

4.2.1 Responsibilities

The Leader of the Council has delegated overall strategic responsibilities for service areas to members of the Cabinet, known as Portfolio Holders, which are set out in the table below:

Portfolio Holder	Overall strategic responsibilities	
Leader	<ul style="list-style-type: none"> • Corporate Vision • Community Leadership • Countywide Leadership role • Representative role at County, Regional and National Level 	
Finance and Corporate Resources	Overall strategic responsibility for	
	Finance	<ul style="list-style-type: none"> • Annual budget strategy • Budget management • Accountancy • Exchequer • Insurance • Treasury management and banking • Procurement strategy and central purchasing • Internal Audit

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		<ul style="list-style-type: none"> • Big Society Scheme • Corporate Health and Safety
	Broadband	<ul style="list-style-type: none"> • Broadband
	Corporate Asset Management	<ul style="list-style-type: none"> • Overview of the Property Programme • Overview and formulation of Assets Management Plan, Property Strategy and Property Office Procedures • Property Service providing property advice and support to service areas
		<ul style="list-style-type: none"> • Initiation and authorisation of property transactions in accordance with the Property Dealing Procedure
	ICT Services	<ul style="list-style-type: none"> • ICT contract and strategy • Networks and system support • Data Protection • Information Management • Internet • FOI/EIR requests for information
	Legal Services	<ul style="list-style-type: none"> • Legal advice and support to Council (re: executive and non-executive functions) • Legal services to departments • Regulation of Investigatory Powers Act 2000 – policy (compliance and co-ordination)
	Committee Services	<ul style="list-style-type: none"> • Council, Cabinet and Committee Services • Corporate Administration including programming meetings
	Human Resources and Business Management	<ul style="list-style-type: none"> • Performance management • Intranet • Public Service Reform • Career Track <p>(NB other Human Resources functions are non-executive and are delegated to the Human Resources and Council Tax Committee)</p>
	Management and Members Support	<ul style="list-style-type: none"> • Corporate Plan • Community Leadership • Member support • Corporate complaints • Ombudsman issues • Outside bodies appointments and

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		support • Equality and Diversity
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Environment	Environment	<ul style="list-style-type: none"> • Household waste minimisation and collection • Recycling maximisation and collection • Street cleansing • Dog Warden Service • Pest Control • Food, safety and hygiene • Water safety/quality • Pollution • Animal welfare • Public protection • Environmental health • Abandoned vehicles • Port health • Unlawful car sales
	Open Spaces and Bereavement	<ul style="list-style-type: none"> • Crematorium and cemeteries • Horticultural services • Open spaces • Recreation grounds • Children's play areas • Public halls • Sports clubs • Fleet management and vehicle workshops
Housing	Strategic Housing (Private Sector Housing)	<ul style="list-style-type: none"> • Financial assistance for private sector housing • Houses in Multiple Occupation • Private Sector Housing – regulation and improvement • Tenants Redress Scheme • Private Sector Housing conditions enforcement and advice • Gypsy/Traveller liaison • Home energy efficiency and fuel poverty • Jaywick Team
	Strategic Housing (Housing Options and Allocations)	<ul style="list-style-type: none"> • Housing strategy and development • Homelessness policy and advice and assistance to homeless persons and in housing need • Housing allocation scheme
	Building Services and Facilities Management	<ul style="list-style-type: none"> • Maintenance of housing assets including sheltered schemes • Housing investment programme • Dangerous structures • Buildings advisory service • Council office and buildings policy including facilities management and

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		<ul style="list-style-type: none"> • maintenance • Depots • Office cleaning • Telephony • Switchboard
	Housing Management	<ul style="list-style-type: none"> • Sheltered housing • Estates management • Housing Revenue Account and business plan • Supporting people contract with Essex County Council • Local supporting people • Partnership with registered providers • Enable new opportunities to address housing need through partnership working
	Revenue and Benefits	<ul style="list-style-type: none"> • Administration of council tax and housing benefit • Business rates (NNDR) and reliefs • Local Council Tax Support Scheme • Cash Collection/Paypoint • Rent collection • Right to Buy and other disposals
	Commercial	<ul style="list-style-type: none"> • Customer services • Careline service • Provision, maintenance and development of CCTV systems • Out of hours service • Tenant relations • Contact centre
Health and Education	Health and Well-being	<ul style="list-style-type: none"> • Health Service Liaison • Health and Well-being • Community Health • Health inequalities • Provision of Emergency Planning
	Partnerships	<ul style="list-style-type: none"> • Education • Community engagement, development and empowerment (including consultations, advice and support) • Relationships with public and third party organisations • Neighbourhood activities
	Community Safety	<ul style="list-style-type: none"> • Community Safety (including police and fire service liaison) • Crime and Disorder Strategy • Business Continuity
Corporate		<ul style="list-style-type: none"> • Corporate Enforcement (excludes

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Enforcement	Corporate Enforcement	regulatory functions that are the responsibility of Planning and Licensing Committees)
	Planning	<ul style="list-style-type: none"> • Local Land Chares Services including the setting of appropriate fees • Planning pre-application advice service (including the setting of appropriate fees) • Building Control Service (including the setting of appropriate fees)
	Car Parking	<ul style="list-style-type: none"> • Off street car parking service • Traffic Regulation Orders • Strategic parking advice and on street functions as delegated by the Highway Authority
Inward Investment and Growth	Regeneration and Inward Investment	<ul style="list-style-type: none"> • Strategic Regeneration • Economic Growth Strategy • Inward Investment • Business Support (employment and development) • Town Centres support • Policy and Project development • Funding bids • Skills and apprenticeships • Job Centre Plus partnerships
Leisure and Tourism	Leisure Services	<ul style="list-style-type: none"> • Sports centres and facilities (including in partnership with schools) • Sports initiatives and sports development • Communities of interest (Children and Young People)
	Tourism and Events	<ul style="list-style-type: none"> • Tourism Strategy • Tourism Events • Tourism information and promotion • Princes Theatre management • Arts, entertainment, culture and heritage initiatives and events
	Seafronts	<ul style="list-style-type: none"> • Seafront Management • Beach Huts and beach cleaning • Kiosks
	Coast Protection and Engineering	<ul style="list-style-type: none"> • Coast Protection and flood defence – planning and major schemes • Coast Protection Maintenance • Minor Engineering works • Sewerage and land drainage • Local highways and lighting functions e.g. road closures, street

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		naming, numbering and name plates and highways rangers
		<ul style="list-style-type: none"> • Transport liaison
	Public Conveniences	<ul style="list-style-type: none"> • Public conveniences

4.2.2 Role of Leader and Individual Portfolio Holders

In addition to the general principles set out in Section 3 above, the role of individual Portfolio Holders with areas of responsibility is as follows:-

1. To have overall responsibility for the development, implementation and review of Strategies and District Council Policy in relation to their portfolios and to be the main Council spokesperson thereon.
2. To monitor service performance regarding progress towards achieving strategies and objectives and delivery of service performance targets within approved budgets.
3. To satisfy themselves as the integrity of financial information and the adequacy of financial controls and risk management arrangements.
4. To represent and speak on behalf of the Cabinet at the Overview and Scrutiny and Audit Committees when they are dealing with issues in their portfolio.
5. To be a member of the Cabinet and exercise collective responsibility in decision making and in making recommendations to the Council.
6. To consult with the Committees, other Members, partners and stakeholders including the public as appropriate in the formulation and development of Council policy within their portfolio.
7. To inform and consult relevant ward Members when making formal decisions.
8. To make decisions in accordance with the Council's Strategies, Policies, Procedures, Protocols and Codes of Conduct or as otherwise required by the Constitution.
- ~~9. To form working parties to examine and advise the Portfolio Holder under specific aspects of the Portfolio Holder's responsibility, for a period limited to delivery of the project. The appointments of Members to serve on working parties will have had regard to the suggestions of the Group Leaders and if necessary, the need to maintain a broad political balance within the membership thereof.~~

4.3 ADDITIONAL SPECIFIC DELEGATIONS TO INDIVIDUAL PORTFOLIO HOLDERS

Finance and Corporate Resources

1. Overseeing implementation of the Property Strategy, Property Programme and Property Office Procedures in accordance with the Property Dealing Procedure.
2. The exercise of functions delegated to the Portfolio Holder by the Property Dealing Procedure.
3. The monitoring and review of the operation of the Council's Constitution and recommending amendments to the Constitution to the Cabinet/Council.

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4. To oversee the preparation and recommendation of financial forecasts and annual detailed budget.
5. In consultation with the Chief Financial Officer, to agree the outturn position/report each year to provide the necessary flexibility to comply with the new statutory timetable for publishing the Council's Statement of Accounts.
6. Overview and presentation of financial monitoring reports to Cabinet.
7. The exercise of functions delegated to the Portfolio Holder by the Financial and Procurement Procedure Rules.
8. The approval of the Council's Council Tax Base and the Government's Annual NNDR Forecast Return.
9. Implementation and Monitoring of the Council's Treasury Management Policy Statement and Treasury Management Practices.

Leisure & Tourism

1. To approve the making of car parking regulation orders when requested by Essex County Council.
2. Proposals for and approve the making of traffic regulation orders where no objections are received.
3. The determination of Hackney Carriage stands under Section 63 of Part 2 of the Local Government (Miscellaneous Provisions) Act 1976.

Housing

1. The authorisation of delegated budgets to formally constituted stakeholder groups subject to adequate provision having been made in the revenue estimates approved by Cabinet.
2. Oversee the preparation of budgets relating to the Housing Revenue Account, Housing Revenue Account Business Plan, Housing General Fund, Housing Benefits and the Housing Investment Programme, including rent setting and review, within policy guidelines as determined by the Cabinet.
3. The development, implementation and amendment, as required, of the Housing Investment Programme in accordance with the annual budget set by Cabinet.
4. The development and review of the Council's Local Council Tax Support Scheme for presentation to Cabinet for recommendation to Council for approval.

Corporate Enforcement

1. Ensuring that there is effective two-way communication between the Executive and the Local Plan and Planning Committees. In particular in relation to the implementation of current Development Plan policies and to drafts of any review of the Development Plan

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2. Approval, where permitted, of Master Plans, Conservation Area Management Plans and Development and Design Briefs prepared to support any Development Plan Documents.

Inward Investment & Growth

1. To act as lead portfolio holder in respect of all Transport cross-cutting issues.
2. Engagement with regional and sub-regional partnerships, planning and funding frameworks – including the Haven Gateway Partnership – to promote the interests of the Tendring District and the communities within it.
3. The approval of grants to organisations (including enhanced rate relief and other discretionary benefits).

4.4 DELEGATION OF EXECUTIVE FUNCTIONS TO OFFICERS

1. With the exception of the matters which the Leader of the Council has determined are to be discharged by the Cabinet or individual Portfolio Holders, as detailed in the Cabinet Scheme of Delegation, the Deputy Chief Executive and the Corporate Directors have delegated authority to discharge all executive functions within their respective service areas as set out in Article 12, having authority to act on all such matters. The Chief Executive shall determine from time to time what the service responsibilities of the Deputy Chief Executive and each Corporate Director and Head of Service shall be.
2. The delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for officers to refer matters to the relevant decision maker i.e. individual Portfolio Holder or a meeting of the full Cabinet, where it is felt that this is appropriate due to the nature of an issue.
3. In all cases of delegations to officers where consultation with the relevant Portfolio Holder is necessary, and in cases where the relevant Portfolio Holder is not available, the Leader of the Council is to be consulted.

In instances, where there is disagreement between the officer and the relevant Portfolio Holder the matter should be referred to Cabinet for consideration and determination.

4. The discharge of all such functions by Officers shall be subject to:-
 - (i) actions being taken in accordance with the Council's Budget and Policy Framework and other Council Policies, Procedures, Protocols and Codes of Conduct;
 - (ii) consultation, as appropriate with relevant Portfolio Holder;
 - (iii) the referral of any required decision or action which is controversial in nature to the appropriate Member decision making individual or body; and
 - (iv) recording the decision in the required format.
5. The Leader of the Council has delegated authority for executive functions to Chief Executive, the Deputy Chief Executive and the Corporate Directors, however any authority granted to the Chief

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Executive, Deputy Chief Executive, Corporate Director or Head of Service, unless otherwise indicated, may be exercised by an Officer authorised by the Deputy Chief Executive, Corporate Director or Head of Service in writing for that purpose. The Monitoring Officer will maintain a record of such authorisations which shall be available for inspection.

6. The Deputy Chief Executive and the Corporate Directors are Designated Officers for the purposes of legislation within their respective service areas as set out in Article 12 of the Constitution and have the power to designate Officers of the authority as an authorised person for purposes relating to legislation falling within their areas of responsibility as set out in Article 12.
7. Any authority which can statutorily only be discharged by Officers with a specific level of qualification must only be conferred to and discharged by such Officers. Furthermore, where the matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council, only that Officer may discharge the function.
8. The Chief Executive has authority to exercise any executive function delegated to Officers, except where an Officer with appropriate qualifications must only discharge such a delegation or where the matter relates to a statutory power or duty conferred or imposed directly on an Officer of the Council as referred to in paragraph 6.
9. The delegations to Officers include the normally accepted powers and duties of Officers to deal with matters of routine occurrence falling within the scope of their departmental and service responsibilities. This includes all present and future legislation relating to the functions of the service and nothing in this schedule shall derogate from any statutory power or duties conferred or imposed directly on an Officer of the Council.
10. In accordance with the legislative requirements, any Officer making a decision in connection with the discharge of an executive function under their delegated powers shall be responsible for maintaining a record of such decisions and arranging for this to be published on the Council's website.

11. Where functions, which are the responsibility of the Cabinet, are delegated to Officers, the Cabinet remain accountable to the Council, through overview and scrutiny committees for the discharge of those functions. That is to say, the Cabinet will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers may be requested to attend an Overview and Scrutiny Committee, if an Officer's decision is called in.
12. The Monitoring Officer shall determine in any case of uncertainty whether any matter falls within the remit of the Council, the Cabinet, a Committee or an Officer of the Council. Such a determination will be having taken account of relevant legislation.

4.4.1 General Responsibilities delegated to Officers:

1. The Deputy Chief Executive and all Corporate Directors have the authority to incur expenditure (with the exception of external legal resources) in accordance with the Budget and Policy Framework, Financial Procedure Rules and Procurement Procedure Rules. Instructing external legal resources remains the responsibility of the Head of Governance and Legal Services.
2. The Deputy Chief Executive and all Corporate Directors are authorised to apply for planning permission in respect of land and/or buildings owned by or within the control of the Council and held in respect of the functions of a Portfolio Holder. In such instances, consultation with the relevant Portfolio Holder is mandatory.
3. In consultation with the Deputy Chief Executive all Corporate Directors are authorised to deal with the assignment of leases and granting, variation and renewal of licences up to a maximum duration of 12 months including annual rights of way within their respective service areas of responsibility.
4. The management and maintenance of all the land holdings occupied or within the control of the service area remit, including health and safety inspections.
5. The Deputy Chief Executive and all Corporate Directors are authorised to issue and serve notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of functions under the control of a Portfolio Holder.
6. All Corporate Directors are authorised in consultation with the Deputy Chief Executive to take all steps in connection with any legal proceedings, in respect of any function under the jurisdiction of a Portfolio Holder including the commencement or defence of, withdrawal, settlement or compromise of any such proceedings.
7. The Deputy Chief Executive and all Corporate Directors are authorised in consultation with the Head of Governance and Legal Services to appear on the Council's behalf in any legal proceedings, under the jurisdiction of a Portfolio Holder, before all courts, tribunals and inquiries.