

Section 4 Responsibility for Functions

- 1.1 This section of the constitution sets out responsibility for functions.
- 1.2 Table 1 sets out responsibility for functions that are not executive functions.
- 1.3 Table 2 sets out responsibility for functions that are “local choice functions” as listed in Schedule 2 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 No 2853 (as amended).
- 1.4 Table 3 sets out the scheme of delegations to officers of functions that are not executive functions.
- 1.5 Table 4 sets out the scheme of delegations of executive functions to individual members of the Cabinet, committees of the Cabinet or officers.
- 1.6 Ad-hoc decisions made during the year can be found on the Council’s website <http://www.wyreforest.gov.uk/council/meetings/main.htm>

Delegation to officers – general provisions and authorisations

- 1.7 Pursuant to Section 101 of the Local Government Act 1972 and Section 15(2) of the Local Government Act 2000, the Council or the Cabinet, as the case may be, delegate to each Officer full powers to act in all matters within their area of responsibility. This delegation includes responsibility for all day to day management and operational decisions, and taking action under statutory provisions relevant to their areas of responsibility including powers of enforcement; but is subject to any specified exclusions or limitations.
- 1.8 For the purposes of the schemes of delegation reference to delegation to an Officer shall mean one of the following officers unless specifically indicated otherwise:
 - Chief Executive (Head of Paid Service)
 - Corporate Director: Community, Wellbeing and Environment
 - Solicitor to the Council (Monitoring Officer)
 - Corporate Director: Economic Prosperity and Place
 - Corporate Director: Resources (Section 151 Officer)
- 1.9 In cases of doubt as to which Officer has responsibility for a matter or the scope of the Officer’s responsibility by reference to appropriate statutory provisions, the Head of Paid Service shall decide.
- 1.10 The delegation to Officers shall include the power:



- (i) to authorise the exercise of the delegated powers by such other officers as may be deemed appropriate for the proper and efficient performance of the work;
- (ii) to designate particular officers as "appropriate" or "proper" officers for the purposes of any statutory provisions including, where necessary or convenient having regard to any professional or technical requirements, an officer who is not an employee of the Council;
- (iii) following consultation with the Head of Paid Service, to authorise particular officers to attend in court including under Section 223 of the Local Government Act 1972 and Section 60(2) of the County Courts Act 1984 (conduct of court proceedings by officers who are not solicitors), and to authorise officers to prosecute, defend or appear on behalf of the Council;
- (iv) to demand, collect, adjust, remit or recover any payments, fees or penalties due to the Council under statutory provisions;
- (v) to make any determination, publish or transmit documents, serve any notice or make any Order or authorise the making of any Order under statutory provisions.

1.11 Every Officer may take any emergency action for the safety of the public or the protection of the property of the Council, in accordance with relevant statutory provisions including the Civil Contingencies Act 2004. This delegation includes power to take any decision, although it is normally the responsibility of the Cabinet, a Cabinet committee or individual Cabinet Member, where the decision has to be taken immediately in response to an emergency as defined in the Emergency Contingency Plan.

1.12 Other Officers as designated by the Head of Paid Service may act in place of the Officer concerned in exercise of any power conferred on an Officer by this Scheme of Delegation whenever a post is vacant or the Officer is for any reason unable to act.

Delegation to Particular Officers - Corporate Matters

1.13 Chief Executive as the Head of the Paid Service shall be authorised:-

- (i) To operate the procedures detailed in the personnel handbook, or any document or handbook that supersedes this.
- (ii) Terms and Conditions of Staff – Subject to any overriding policies or exceptions specified by the Council, The Head of Paid Service is authorised:
 - (a) to determine the changes to general conditions of employment;
 - (b) to offer fixed-term contracts to new and existing employees;



- (c) to decide on creation, deletion and grading of posts (except JNC or similar posts);
- (d) to deal with any industrial relations matters.

1.14 The areas of responsibility mentioned in paragraph 1.7 include but are not limited to:

Chief Executive

- Wyre Forest Forward programme management
- Policy and performance

Solicitor to the Council

- Elections
- Committee & member services
- Legal services
- Human resources
- Covert surveillance – monitoring and reports
- Constitution
- Ethical issues / code of conduct
- Corporate governance framework (shared)

The Officer shall be authorised:-

- (i) To exercise the required discretion whether or not to initiate, prosecute or defend legal proceedings on behalf of the Council under any statute, order, regulation or byelaw (including Section 222 of the Local Government Act 1972); in respect of property issues; or in any legal proceedings against the Council brought by any person or body. This authorisation is subject to the Officer being satisfied as to the evidence;
- (ii) To certify resolutions and documents as being true copies.
- (iii) To obtain Counsel's Opinion or instruct Counsel to appear on behalf of the Council whenever he/she considers such action advisable.
- (iv) To sign on behalf of the Council any deed or other document authorised by the Council or which it is necessary or desirable to give effect to any decision of the Council, unless any enactment otherwise requires or authorises or the Council has authorised some other person for some specific purpose.
- (v) To apply for any necessary consent or licence.
- (vi) To make any minor changes necessary to the Council's Constitution including changes arising from decisions of the Council, changes to legislation and including ad hoc appointments to outside bodies.



Corporate Director: Resources

- Customer services
- Revenues and benefits
- ICT
- Accountancy
- Internal audit
- Procurement*
- Payroll*
- Data protection

The Officer shall be authorised:

- (i) to write off debts up to £10,000 for any individual account, subject to consultation with the Cabinet Lead Member for amounts between £5,000 and £10,000 (note that any debts classed as non recoverable in accordance with relevant legislation do not require write-off approval);
- (ii) to amend the Council's Financial Regulations in order to meet legislative and operational requirements, in consultation with Cabinet Lead Member;
- (iii) to determine the most financially prudent funding method for capital projects (including borrowing, capital receipts or direct revenue funding);
- (iv) to have responsibility, in consultation with the Monitoring Officer, for the maintenance of a sound system of internal control which facilitates the effective exercise of the Council's functions and which includes arrangements for the management of risk, as required by the Accounts and Audit Regulations 2011;
- (v) to exercise functions in respect of the Council's Collection Fund.

Corporate Director: Community Well-being and Environment

- Cultural and leisure services
- Waste and recycling collection
- Environmental maintenance (Street scene and car parks)
- Parks and green spaces
- Community safety
- Media, web and digital services
- Partnerships
- Emergency planning*

Corporate Director: Economic Prosperity and Place

- Planning policy
- Economic development and regeneration*
- Development control
- Land charges
- Building control*
- Strategic housing
- Water management*
- Environmental Health*
- Licensing*
- Facilities & asset management

* denotes services are delivered by shared services



Table 1: RESPONSIBILITY FOR FUNCTIONS – FUNCTIONS THAT ARE NOT EXECUTIVE FUNCTIONS

This table is subject to:

- (1) functions carried out by the District Council itself as set out in Article 4 or other provisions of the constitution;
- (2) the general provisions relating to delegations to officers set out in paragraphs 1.7 to 1.14 above and the delegations to officers set out in table 3 below.

FUNCTION	DELEGATION OF FUNCTIONS (subject to the delegations to officers set out in table 3)
Responsibility for relevant functions in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 No 2853 (as amended)	
Functions relating to town and country planning and development control. Exception: adoption of the Plans and alterations which together comprise the Development Plan.	Planning Committee Council (to approve final document); Overview and Scrutiny Committee (to amend and update, prior to final approval by Council)
Licensing and registration functions (in so far as not covered by any other paragraph of Schedule 1 to SI 2000/2853) Exception: adoption of Licensing Authority Policy Statement	Licensing and Environmental Committee Council
Functions relating to health and safety at work	Bromsgrove District Council (Worcestershire Regulatory Services)
Functions relating to elections	Council
Functions relating to name and status of areas and individuals	Council
Functions relating to community governance	Council
Power to make, amend, revoke, re-enact or enforce byelaws	Council
Functions relating to smoke-free premises etc	Bromsgrove District Council (Worcestershire Regulatory Services)
Power to promote or oppose local or personal Bills	Council
Functions relating to pensions etc	Council
Miscellaneous functions Note: only those relevant to district councils are listed in this table Power to make standing orders.	Council



Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Council Except: functions delegated to Appeals and Appointments committee, as set out in its terms of reference in respect of dismissals; Except: functions conferred on Officers by the Employment Procedure Rules as detailed in the Personnel handbook, including those required by legislation.
Power to make standing orders as to contracts.	Council
Duty to make arrangements for proper administration of financial affairs etc.	Duty to secure that an officer has these responsibilities: Council Duty to make arrangements for proper administration etc: Officer appointed by the Council under this provision
Power to appoint officers for particular purposes (appointment of “proper officers”)	Officers
Power to make limestone pavement order.	Planning Committee
Power to make closing order with respect to take-away food shops	Bromsgrove District Council (Worcestershire Regulatory Services)
Duty to designate officer as the head of the authority’s paid service, and to provide staff etc.	Council
Duty to designate officer as the monitoring officer, and to provide staff etc.	Council
Duty to provide staff etc to person nominated by monitoring officer	Council
Powers relating to overview and scrutiny committees (voting rights of co-opted members)	Making or amending scheme: Council Publicity etc for scheme: Officers
Duty to approve authority’s statement of accounts	Audit Committee This includes ensuring that the statement of accounts is signed and dated by the person presiding at the committee at which approval was given.
Powers relating to the protection of important hedgerows.	Planning Committee
Powers relating to the preservation of trees.	Planning Committee
Powers relating to complaints about high hedges.	Planning Committee
Power to make payments or provide other benefits in cases of maladministration etc.	Officers Except payments over £500: Council
Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption	Council



Power to make or revoke an order designating a locality as an alcohol disorder zone	Council
Power to apply for an enforcement order against unlawful works on common land	Planning Committee
Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference	Planning Committee
Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens	Planning Committee



Table 2: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

This table is subject to the general provisions relating to delegations to officers set out in paragraphs 1.6 to 1.13 above and the delegations to officers set out in table 3.

Responsibility for relevant functions in Schedule 2 to the 2000 Regulations is as follows:

Function	Responsible body (subject to the delegations to officers set out in table 3)
Functions under local Acts	Cabinet
Determination of appeals	1. Appeals in respect of the council's role as employer: Appointments and Appeals Committee as set out in its terms of reference, Head of Paid Service for other appeals 2. All other appeals: Cabinet
Appointment of review boards	Cabinet
Arrangements for questions on police matters at council meetings	Council
Contaminated land	Officers
Control of pollution or management of air quality	Officers Except declaration of air quality management area: Cabinet
Service of abatement notice	Bromsgrove District Council (Worcestershire Regulatory Services), so far as it relates to environmental health and licensing All other cases – Officers
Resolution to apply Schedule 2 to the Noise and Statutory Nuisance Act to the authority's area	Cabinet
Inspection of the authority's area to detect a statutory nuisance	Bromsgrove District Council (Worcestershire Regulatory Services), so far as it relates to environmental health and licensing All other cases - Officers
Investigation of any complaint as to existence of statutory nuisance	Bromsgrove District Council (Worcestershire Regulatory Services), so far as it relates to environmental health and licensing All other cases - Officers
Obtaining information as to interests in land	Bromsgrove District Council (Worcestershire Regulatory Services), so far as it relates to environmental health and licensing All other cases - Officers



Appointment of any individual to any office, body or committee of such a body	Council at annual general meeting Cabinet in respect of any vacancy that arises during the municipal year.
Making of agreements to place staff at disposal of other authorities	Officers
Functions relating to local area agreements	Cabinet



Table 3: DELEGATION TO OFFICERS OF FUNCTIONS THAT ARE NOT EXECUTIVE FUNCTIONS

To exercise authority in respect of all applications, notifications, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and to any re-enactment or replacement of the statutes, or regulations or guidance or any modifications thereof):

Acquisition of Land Act 1981
 Ancient Monuments and Archaeological Areas Act 1979
 Anti-Social Behaviour, Crime and Policing Act 2014
 Building Act 1984
 Caravan Sites and Control of Development Act 1960
 Circular 5/2000: Planning Appeals: Procedures (including Inquiries into Called in Planning Applications)
 Circular 18/1984: Crown Land & Crown Development
 Clean Neighbourhoods and Environment Act 2005
 Commons Act 2006
 Electricity Act 1989
 Environmental Protection Act 1990
 Goods Vehicles (Licensing of Operators) Act 1995
 Goods Vehicles (Licensing of Operators) Regulations 1995
 Hedgerow Regulations 1997
 Highways Act 1980
 Land Drainage Act 1991
 Local Government Planning and Land Act 1980
 National Parks and Access to the Countryside Act 1949
 Planning (Hazardous Substances) Act 1990
 Planning (Listed Buildings & Conservation Areas) Act 1990 (as amended)
 Planning and Compensation Act 1991
 Planning and Compulsory Purchase Act 2004
 Telecommunications Act 1991
 Town & Country Planning Act 1990 (as amended)
 Town & Country Planning (Control of Advertisements)(England) Regulations 2007
 Town & Country Planning (Development Management Procedure)(England) Order 2010
 Town & Country Planning (Environmental Impact Assessment) Regulations 2010
 Town & Country Planning (General Permitted Development) Order 1995 (as amended)
 Town & Country Planning (Local Development) (England) Regulations 2004
 Wildlife and Countryside Act 1981

Except in the following cases:

1. A Wyre Forest District Councillor makes a written request for an application to be considered by the Planning Committee within 21 days of the date of validation of the application.
2. A Parish Council makes a request to speak on an application to be



- considered by the Planning Committee within 21 days of the date of validation of the application.
3. The Officer or another officer nominated by him/her considers that an application should be considered by the Planning Committee.
 4. The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council.
 5. The applicant is a serving Wyre Forest District Council Councillor or is a serving Councillor representing Wyre Forest District on Worcestershire County Council.
 6. The applicant is a serving Wyre Forest District Council Officer, or is an immediate family member of a serving Wyre Forest District Council Officer occupying a Senior position within the Council or serving in a planning related role, as defined in the Officers' Planning Code of Good Practice.
 7. Any 'major' planning application as defined by the Town & Country Planning (General Development Procedure) Order 1995 except applications to vary conditions of an existing planning permission where the Officer considers that the nature of the original development permitted remains substantially unaltered; applications which are only classified as 'major' due to the overall site area as indicated by the applicant (to include changes of use applications); and, applications which propose only relatively minor alterations to what has been previously approved (e.g. substitution of house types).
 8. Any planning application representing a departure from the Development Plan which is recommended for approval.
 9. Any application, at the discretion of the Development Manager in consultation with the Chairman of Planning Committee, where a statutory or non statutory Consultee (including Parish Councils) has responded to the application in writing with a clearly made planning objection and the application is recommended for approval.
 10. Any application except applications for certificates of Lawful Existing Development and Proposed Development where a request by a third party has been made to speak at the Planning Committee, within 21 days of the date of the neighbour notification letter or the site/press notice, and the request accords with the Council's published policy and procedure for speaking at Planning Committee.
 11. Applications involving proposed S106 obligations (except where in accordance with the adopted Supplementary Planning Document – Planning Obligations)
 12. The service of Enforcement and Stop Notices (but not including Temporary Stop Notices or Enforcement Notices relating to retrospective developments where planning permission has been refused) and subject to:
 - A) All delegated decisions being in accordance with the Development Plan policies.
 - B) The following being first agreed with the Chairman or in his/her absence, the Vice Chairman of the Planning Committee as appropriate:
 - Service of Building Preservation Notices



- Service of Listed Building Enforcement Notices
 - Service of Temporary Stop Notices
- C) The following consultation and/or notification (in addition to statutory or published requirements) having first been carried out:
- The relevant Parish Council and Ward Members in respect of the removal of hedgerows under the Hedgerow Regulations 1997.
 - The relevant Parish Council neighbours and other interested parties (at the discretion of the Officer) in respect of 'minor' amendments made to applications previously approved.
 - The relevant Ward Members in respect of notifications made by statutory undertakers under Part 17 of the Schedule to the General Permitted Development Order 1995.
 - The relevant Ward Members and Parish Councils in respect of applications for works to trees subject to Tree Preservation Orders and S211 Notices for works to trees in Conservation Areas.

Subsequent to the resolution of the Planning Committee, the power to update the wording of conditions to planning permissions before the issuing of the Decision Notice, subject to consultation with the Chairman of the planning committee (or Vice-Chairman in his absence) and as long as the intentions of the Planning committee are not undermined in so doing and the principle of the development remains unaffected. Otherwise the application will be reported back to the Planning Committee for them to consider the changes to the conditions or the additional condition(s).

Licensing and registration functions

To exercise authority, including approval and refusal, suspension and revocation, service of notices and orders or other matters requiring a decision by the Council under the Council's published policy and practice notes and the following legislation, regulations and guidance (and any re-enactment or replacement or consolidation of the statutes or regulations or guidance, or any modifications or extensions thereof):

Animal Boarding Establishments Act 1963

Animal Welfare Act 2006

Breeding and Sale of Dogs (Welfare) Act 2006

Breeding of Dogs Acts 1973 and 1991

Caravan Sites and Control of Development Act 1960

Caravan Sites Act 1968

Dangerous Wild Animals Act 1976

Gambling Act 2005

Game Act 1831

Licensing Act 2003

Local Government (Miscellaneous Provisions) Act 1976



Pet Animals Act 1951

Police, Factories (Miscellaneous Provisions) Act 1916

Riding Establishments Acts 1964 and 1970

Scrap Metal Dealers Act 2013

Town Police Clauses Act 1847

Video Recordings Acts 1984 and 1993

Hackney Carriage Licensing

Private Hire (including driver, vehicle and operator) Licensing

Control of Sex Establishments (including lap dancing and sexual entertainment venues)

Street Trading

Street Amenity Licences

Zoo Licensing Act 1981

Motor Salvage Operator Regulations 2002

Except in the following cases:

- 1) The Officer considers that an application should be considered by the Licensing committee/Sub Committee
- 2) The application is for a hackney carriage/private hire vehicle driving licence or a hackney carriage/private hire vehicle licence or a premises licence or a personal licence under the Licensing Act 2003 and the application is recommended for refusal (except where the refusal is under the Council's age criteria policy for hackney carriages/private hire vehicles).

The delegation to officers to take decisions under the age criteria policy includes the power to approve applications where there are material grounds to depart from the policy, because the vehicle is presented in exemplary condition.
- 3) Any application where a statutory or non-statutory consultee, responsible authority or interested person has responded to the application objecting to its approval and the objection has not been deemed vexatious (except taxi drivers where the objection relates to the issue of being a fit and proper person).
- 4) The applicant is Wyre Forest District Council or is made on land owned by Wyre Forest District Council.
- 5) The applicant is serving as a Wyre Forest District Councillor or as a Worcestershire County Councillor representing an electoral division in Wyre Forest, or is an immediate family member of such a Councillor.
- 6) The applicant is a serving officer of Wyre Forest District Council or of Worcestershire Regulatory Services or is an immediate family member of such an Officer.



- 7) The application or review is such that primary or secondary legislation dictates it must be a committee decision.
- 8) The proposal involves the determination of Fees and Charges.
- 9) Where there are grounds to refuse an application under the Scrap Metal Dealers Act 2013.

Terms and conditions of staff

Subject to any overriding policies or exceptions specified by the Council, the Head of Paid Service is authorised:

- a) to determine changes to general conditions of employment;
- b) to offer fixed-term contracts to new and existing employees;
- c) to decide on creation, deletion, and grading of posts (except JNC or similar posts);
- d) to deal with any industrial relations matters.

Public rights of way

Responding to proposals for diversions and other alterations to public rights of way, subject to prior consultation with the Ward Member(s).

Making orders relating to a public right of way, subject to prior consultation with the Ward Member(s). In the event of any such Ward Member(s) objecting, to consult the Cabinet before deciding whether to make the order.



Table 4: DELEGATION OF EXECUTIVE FUNCTIONS TO INDIVIDUAL CABINET MEMBERS, TO COMMITTEES OF THE CABINET OR TO OFFICERS

In the event of changes to any Cabinet Members portfolio of responsibilities, delegated authority will automatically transfer to the relevant new Cabinet Member

Executive function(s)	Delegation to
<p>Estates management, land and property issues</p> <p>Acquisition or disposal of land or the granting or taking of any lesser interest:</p> <ul style="list-style-type: none"> • where the consideration to be paid or received by the Council is greater than £10,000 but less than £100,000 in amount or value; • where the consideration to be paid or received by the Council is not greater than £10,000 in amount or value. <p>These delegations do not apply in the case of disposals where the consent of the Secretary of State would be required (unless a general consent applies) or where there is a requirement to advertise the disposal of open space land under Section 123(2A) of the Local Government Act 1972.</p> <p>To accept surrenders and agree assignments of leases of Council-owned properties.</p>	<p>Cabinet Lead Member</p> <p>Officers</p> <p>Officers</p>
<p>Fees and charges</p> <p>To set fees and charges in accordance with the Council's policy on fees and charges in respect of the following issues:</p> <ul style="list-style-type: none"> - provision of copies of documents, plans etc.; - short term licences for use of car parks otherwise than in accordance with car parking charges order; - licence fee for casual fishing permits where the Council retains fishing rights; - charges set on a negotiated or discount basis for block bookings, school use, programmed use and special promotions; - varying the standard fee scales, as laid out in the Council's Scheme for the recovery of Building Regulation costs under the Building (Local Authority) Regulations 	<p>Officers</p>



<p>1998, by plus or minus 10% to ensure that the Council remains competitive so long as the income fully covers the expenditure in the fee carrying account;</p> <ul style="list-style-type: none"> - the scale of fees for pre planning application advice, including conservation/heritage and arboricultural advice 	
<p>Road closure orders To make orders under Section 21 of the Town Police Clauses Act 1847 to ensure the temporary closure of roads for festivals, events and other appropriate purposes.</p>	Officers
<p>Conservation To amend the List of Buildings of Local Architectural and/or Historic Interest (The Local List) from time to time to add new properties meeting the criteria or remove those which no longer meet the criteria.</p> <p>Approving the award of grants under the Partnership Scheme in Conservation Areas in accordance with the Capital Programme, following consideration by the Overview and Scrutiny Committee in accordance with the protocol approved by the Cabinet.</p>	<p>Corporate Director: Economic Prosperity and Place, with the agreement of the Cabinet Lead Member</p> <p>Cabinet Lead Member</p>
<p>Housing Determination of applications for the award of financial support for affordable housing through the Council's Capital Strategy, following consideration and recommendation by the Overview and Scrutiny Committee.</p>	Cabinet Lead Member

Policy framework – definition

In this constitution, “policy framework” means:

Plans or strategies that are required under statute

Crime and disorder reduction strategy

Development plan documents

Licensing authority policy statement

Plans and alterations which together comprise the Development Plan

Other plans or strategies

Corporate plan

Financial strategy, including any plan or strategy for the control of the authority's borrowing, investments or capital expenditure or for determining the authority's minimum revenue provision

Shared services strategy

Fees and charges strategy

Property rationalisation strategy

