

## Part C5: Executive or Cabinet Functions

- 5.1 The Council operates a Leader and Cabinet form of Executive and the Leader of the Council specifies how the functions of the Executive (known as 'Executive Functions') will be carried out. All functions of the Council that are not reserved by law as Non-Executive (see Part C2), are Executive functions. Except where the law otherwise provides, it is at the Leader's discretion to determine how decision-making in relation to Executive functions will be exercised.
- 5.2 The Leader may discharge any Executive functions directly or may arrange for the discharge of those functions by:
- the Cabinet
  - a Cabinet Committee
  - an individual member of the Cabinet (Cabinet Member)
  - an officer of the Council
  - another local authority
  - jointly with another local authority through a joint committee or Officer
- 5.3 The Cabinet undertakes all Executive functions including:
- (a) proposing plans and strategies, including the overall Budget, the Policy Framework, changes to the Constitution and arrangements for the good governance of the authority, to Council to approve and adopt
  - (b) publishing in the Forward Plan all decisions by Cabinet, individual Cabinet members and Key Decisions made by officers
  - (c) establishing committees to discharge specific Executive functions, or establishing working groups or panels to review or advise on specific issues
  - (d) representing the Council locally, nationally, and internationally
  - (e) attending meetings of the Overview & Scrutiny committee and any Task and Finish Groups when required to do so.
  - (f) agreeing the acquisition and disposal of property (within limits set out in the Financial Rules and the Acquisition and Disposal Policy) and the management of the Council's landholdings
  - (g) proposing acquisition or disposal of land and property to Council where the financial implications exceed the threshold delegated to the Cabinet
  - (h) exercising the powers and duties of the Council in respect of leisure, museums, consumer protection and environmental health
  - (i) acting as waste collection authority
  - (j) agreeing protocols for consultation and relations with outside bodies
- 5.4 As a rule, matters of corporate policy and high-level strategic matters will be determined by the Cabinet collectively; strategic matters relating to Cabinet member portfolios will be determined by individual Cabinet members; and operational service matters will be determined by the Chief Executive and / or Deputy Chief Executive in consultation with the Leader and / or relevant Cabinet Member, where appropriate. Where there is doubt, the Leader will be asked to decide.
- 5.5 **Delegations**

- 5.5.1 The Leader has exercised the power of delegation in the manner set out below in Table 4 'General Scheme of Delegation of Executive Functions' and Table 5 'Additional Delegation of Executive Functions to Officers'. In Table 4 reference to 'Cabinet Member' means a Cabinet Member acting in portfolio as set out in Appendix A and reference to 'Officer' means Chief Executive, Deputy Chief Executive, Monitoring Officer, other Chief Officers, designated Council officers or designated senior Publica employee, when acting as an employee of Cotswold District Council.
- 5.5.2 The Leader has directed that the Executive Functions delegated to Cabinet Members as setout in Table 5 shall not be sub-delegated to Officers without prior consent.
- 5.5.3 Each person or body to whom an Executive Function is delegated shall be empowered to take any step for the purposes of or in connection with the discharge of the Function and may do anything incidental or conducive to discharge of the Function or do anything expedient in connection with the discharge of the Function.
- 5.5.4 The Leader may amend these delegations at any time by giving notice in writing to any person who currently holds the power and any person to whom the power is now to be delegated and to the Proper Officer (in this case the Chief Executive or in their absence or where they are unable to act the Deputy Chief Executive) setting out the change to be made; such amendment to take effect immediately on confirmation of receipt by the Proper Officer. The Proper Officer will ensure that this Part C of the Constitution is updated forthwith.
- 5.5.5 Where an Executive Function has been delegated by the Leader this does not prevent the Leader from exercising that Function.
- 5.5.6 In the absence of the Leader of the Council the person or persons designated by the Leader and notified by the Leader to the Proper Officer as having responsibility for the Leader's area(s) of responsibility is or are authorised to exercise the functions of the Leader pursuant to the Constitution.
- 5.5.7 [Article 13 'Decision Making'](#) applies to the exercise of all Executive Functions in this Part.

## **5.6 Officer Delegations - Special Provisions**

- 5.6.1 The Chief Executive and Deputy Chief Executive are not required to exercise all delegations personally and may sub-delegate any Function in this Part C to Officers of suitable experience and seniority.
- 5.6.2 An Officer does not have delegated authority to take a Key Decision unless
- specifically authorised to do so by the Leader or
  - the Chief Executive
  - or, in their absence or where they are unable to act, the Deputy Chief Executive is taking an urgent decision as set out in this Part C5.
- 5.6.3 The fact that a function is delegated to an Officer under this Scheme does not preclude the person or body which gave the delegation from exercising the function

in question.

- 5.6.4 The Leader may direct in any case that a power delegated to an Officer in respect of an Executive Function shall not be exercised by an Officer and that the Function in question shall instead be exercised by the Leader or Cabinet. Such direction must be exercised in consultation with the Chief Executive or Deputy Chief Executive.
- 5.6.5 A Cabinet Member may in respect of an Executive Function which falls within their portfolio direct in any case that a delegated power to an Officer shall not be exercised by an Officer and shall instead be exercised by them as Cabinet Member. Such direction must be exercised in consultation with the Chief Executive or Deputy Chief Executive and the Leader.
- 5.6.6 The Chief Executive or Deputy Chief Executive may at their discretion and in consultation with the Leader or Cabinet Member refer any matter to the Leader or Cabinet for decision.
- 5.6.7 Officers have responsibility to report to the Leader or Cabinet Member matters that are of political or strategic significance related to any function they are exercising where it is proper for them to be aware of the position.

## **5.7 Cabinet Member Portfolios**

- 5.7.1 Cabinet members have personal responsibility for decisions taken in relation to and discharging those Executive functions within their remit (portfolio of responsibility) as determined by the Leader.
- 5.7.2 As a general proposition, Cabinet members are responsible for:
- leading on developing Council policy and make recommendations to the Cabinet
  - providing guidance to the Cabinet on running activities
  - giving guidance to the Cabinet on budget priorities
  - monitoring performance and ensure policy is delivered
  - leading on improving Council services
  - making sure that activities meet the Council's overall vision, core values and guiding principles
  - contributing to debate and decision-making
  - working with councillors who are not members of the Cabinet, including members of Overview & Scrutiny Committee, members of the Opposition and Officers to make sure that the overview and scrutiny process works correctly
  - appearing before and responding to Overview and Scrutiny Committee reports
  - representing the Council at a national and local level
  - Each Cabinet Member is the spokesperson for the policy area or 'portfolio' they are responsible for
- 5.7.3 If a Cabinet Member wishes to make a decision contrary to the advice of the relevant Officer, they must refer the issue to the Cabinet for a decision. If a Cabinet Member considers that any decision they are being asked to take is likely to be particularly sensitive or controversial, they have the discretion to refer the decision to the Cabinet for consideration.

## 5.8 Table of Executive Functions (Table 4)

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
<b>Policy and Strategy</b>					
Recommend to Council all plans strategies and policies which comprise the Policy Framework (Part 2 article 4) and initiate consultation on such plans policies and strategies			✓		
Agree in year changes to the Policy Framework to the extent permitted by Council or by the Constitution			✓		
Refer to Cabinet for discussion those plans strategies and policies which comprise the Policy Framework and initiate any appropriate consultation on them	✓	✓			
Take urgent decisions that are contrary to or not wholly in accordance with the Policy Framework	✓		✓		CX
Refer to Cabinet those plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval	✓	✓			CX/DCX
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet approval			✓		
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Cabinet Member approval (except Key Decisions)		✓			
Agree/amend plans strategies and policies which do not comprise the Policy Framework and require Officer approval (except Key Decisions)					CX/DCX
Respond to consultations from Government, local authority associations and similar bodies which have policy or cross service issues	✓	✓			
Respond to all other consultations					CX/DCX
<b>Finance</b>					
Prepare and consult on the Council's Budget and recommend to Council for approval			✓		
Receive and consider quarterly budget			✓		

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
monitoring reports					
Take urgent decisions that are contrary to or not wholly in accordance with the Budget	✓		✓		CX/DCX
Make bid for funding with resource implications exceeding £150,000			✓		
Make bid for funding with resource implications exceeding £100,000 and not exceeding £150,000	✓	✓			
Make bid for funding with resource implications not exceeding £100,000					CX/DCX
Agree a contribution to reserves above the level set in the Budget up to £150,000			✓		
Propose to Council a contribution to reserves above the level set in the Budget over £150,000			✓		
Agree use of charging and trading powers		✓	✓		
Set fees and charges		✓	✓		
Agree increase in fees and charges by more than inflation			✓		CX/DCX
Agree increase in fees and charges in line with inflation		✓			
<b>Service Delivery</b>					
Take all steps reasonably necessary to facilitate the effective and efficient delivery of services within their portfolio		✓			
Take all steps reasonably necessary for the effective and efficient delivery of services for which they are responsible					CX/DCX
Undertake internal changes and improvement of the Council's services					CX
<b>Commissioning and Contracts</b>					
Approve the means by which the Council's services will be provided including through a delegation to another local authority, local authority company, community interest company, private organisation, trust or			✓		

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
public/private partnership					
Arrange for any Executive Function to be undertaken by another local authority			✓		
Arrange for any Executive Function to be exercised jointly with one or more local authorities through joint arrangements			✓		
Appoint member to a joint committee which undertakes Executive Functions and decide on the number of Members to be appointed and their term of office	✓				
Agree to Council appointment of member to a joint committee which undertakes at least one Executive Function and agree the number of members to be appointed and their term of office	✓				
Represent (or arrange for a Member or Officer to represent) the Council as shareholder or member in a company in which the Council holds an interest	✓				
Monitor the performance of contracts and service level agreements in respect of all non-internally provided services					CX/DCX
Accept tenders within budget and exceeding £250,000		✓			
Accept tenders and quotations within budget and not exceeding £250,000					CX/DCX
Approve waiver to Contract Rules where the value is in excess of £100,000			✓		
Approve waiver to Contract Rules where the value does not exceed £100,000 pursuant to Contract Rule 6.2					DCX/MO
Approve waiver from Contract Rules where the value exceeds £100,000 and an urgent decision is required pursuant to Contract Rule 6.2.1					CX
<b>Constitution &amp; Democratic Process</b>					
Make Key Decision		✓	✓		
Make urgent Key Decision	✓		✓		CX

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
Respond to call-in of a decision	✓	✓	✓		
Respond to petition to Council		✓			
Appoint and remove Cabinet Members and decide their portfolios	✓				
Establish Cabinet Committee or working group			✓		
Delegate Executive Function to a Cabinet Member or Officer	✓				
Delegate Executive Function to an Officer with prior consent of Leader		✓	✓		
Undertake such specific Executive Function as maybe allocated from time to time by the Leader	✓	✓	✓		CX/DCX
Undertake any Executive Function which is delegated to an Officer where the Leader directs it should be exercised by Cabinet			✓		
Undertake any Executive Function which is delegated to an Officer where the Officer decides to refer it to Cabinet			✓		
Undertake any Executive Function delegated to a Cabinet Member where through absence, conflict or otherwise the Cabinet Member is unable to act	✓				
Undertake any Executive Function delegated to Cabinet which in the opinion of the Chief Executive requires an urgent decision before the next meeting of Cabinet	✓				
Appoint or nominate individuals to outside bodies in respect of Executive Functions and revoke or withdraw such appointment or nomination provided all Group Leaders agree	✓				
<b>Legal Services</b>					
Undertake the role and functions of the Council's Solicitor and Chief Legal Officer and provide the Council's legal service					MO/Head of Legal Services
<b>Audit and Governance</b>					

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
Undertake the functions of the Council in respect of internal audit					DCX – SWAP
<b>HR</b>					
Undertake functions of the Council in respect of human resources and payroll					CX – MD Publica
<b>Building Control</b>					
Undertake functions of the Council in respect of building control					CX – MD Publica
<b>Assets &amp; Property</b>					
Agree asset strategic/management plan			✓		
To be notified of any disposal of non-land assets with a value exceeding £10,000			✓		DCX – MD Publica
To be notified of any disposal of non-land assets with a value not exceeding £10,000		✓			DCX – MD Publica
Make compulsory purchase order (CPO)			✓		
Acquire land or property following CPO					CX
Propose to Council a property acquisition or disposal (other than following) where the value exceeds £1,000,000;			✓		
Agree a property acquisition or disposal (other than following CPO) where the value is over £250,000 and up to £1,000,000;			✓		
Agree a property acquisition or disposal (other than following a CPO) where the value is more than £50,000 but does not exceed £250,000;		✓			
Agree a property acquisition or disposal (other than following a CPO) where the value does not exceed £50,000;					CDX – MD Publica
Agree Surplus Property Register and determine whether to retain the property or to dispose of it (the timing of such disposal to be at the discretion of the Deputy Chief Executive)		✓			DCX – MD Publica
Dispose of, exchange or appropriate public open space (any value) where there have been objections to the			✓		



Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
statutory notice of disposal or appropriation					
Appropriate land (except public open space where objections to the statutory notice of intended appropriation are received)		✓			
Propose to Council to dispose of or exchange land with a value exceeding £1,000,000			✓		
Dispose of or exchange land with a value exceeding £250,000 up to £1,000,000 (including at an undervalue)			✓		
Dispose of or exchange land with an annual value exceeding £500,000 but not exceeding £250,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)		✓			
Dispose of or exchange land with an annual value not exceeding £50,000 including at an undervalue (and including public open space disposals where there have been no objections to the statutory notice of disposal)					DCX – MD Publica
Dispose of statutory allotments			✓		
Apply to Secretary of State to dispose of housing land under Housing Act 1985		✓			
Give public notice of a proposal to dispose of or change the use of public open space					DCX – MD Publica
Approval of rent reviews where the annual rent exceeds £250,000 and reviews are the subject of negotiation			✓		
Determination of rent reviews: (a) Where the annual rental does not exceed £250,000; or (b) Where the annual rental exceeds £250,000, where a calculation mechanism is set down in the lease and has no element of negotiation		✓			DCX – MD Publica

Function	Leader	Cabinet Member	Cabinet	Other Local Authority	Officer Chief Executive (CX) or Deputy Chief Executive (DCX) or Managing Director of Publica (MD)
Determination of rent reviews: (a) Where the annual rental does not exceed £50,000; or (b) Where the annual rental exceeds £50,000, where a calculation mechanism is set down in the lease and has no element of negotiation					DCX – MD Publica
Grant consents and licences under any leases granted by the Council					DCX – MD Publica
Apply for consents and licences under any leases under which property is held by the Council					DCX – MD Publica
Authorise rent subsidy (exceeding a value of £250,000) to third party on Council owned land			✓		
Authorise rent subsidy (exceeding £50,000 but not exceeding a value of £250,000) to third party on Council owned land		✓			
Authorise rent subsidy (not exceeding £50,000) to third party on Council owned land					DCX – MD Publica
All other matters within the day-to-day management of the Council's property portfolio where the value of the action taken does not exceed £50,000					DCX – MD Publica

### Definitions:

- “Acquire” includes the acquisition (including the acceptance of a surrender where appropriate) of a freehold or leasehold interest, rights, benefits or privileges, the dedication under statutory powers or obligations and includes the variation of any lease where the Council is a tenant under the lease.
- Appropriation (appropriate)” is the formal transfer of property within the Authority from one statutory function to another
- “Dispose” includes the transfer of a freehold interest, dedication under statutory powers or obligations, easements (leasehold or freehold) and the grant, release, assignment or giving of a surrender (as appropriate) of any lease, covenants, benefits rights or privileges and includes the variation of any lease where the Council is a landlord under the lease.
- “Land” includes all buildings structures, rights and interests associated with land

- “Lease” includes any tenancy, licence, consent to occupy
- “Subsidy”, where there is reference to rent subsidy, is to the value of the identifiable rent, service charges, business rates and other out goings for the identifiable period of commitment
- “Value”, where there is reference to a lease/tenancy/licence/surrender, is to the identifiable rent, service charges, business rates and other out goings for the identifiable period of commitment

## 5.9 Additional Delegation of Functions to Officers

5.9.1 All Executive Functions, other than those allocated in Table 4 of this Part, are delegated to the Chief Executive and Deputy Chief Executive as set out in Table 5 below.

5.9.2 In addition, the Chief Executive and Deputy Chief Executive will exercise powers or duties specifically delegated to them by the Leader, Cabinet or a Cabinet Member.

### Additional Executive Functions of Officers (Table 5)

Chief Executive	
Function	Condition
Discharge any Executive Function which is delegated to an Officer under Part C	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Take an urgent decision in respect of an Executive Function (excluding a key decision) in a situation where there is not sufficient time for a report to be considered by the Leader or Cabinet Member.	Wherever possible this shall be done in consultation with the Leader and Cabinet Member (where not the Leader). The decision shall be reported to the next scheduled ordinary Cabinet meeting.
To authorise Officers to represent the Authority before a court or tribunal pursuant to: - a) Paragraph 1(3) Schedule 3 of the Legal Services Act 2007 in respect of: - (i) Section 223 of the Local Government Act 1972 (ii) Section 60 of the County Courts Act 1984 b) Paragraph 1(7) Schedule 3 of the Legal Services Act 2007  The Lay Representatives (Rights of Audience) Order 1999.	In consultation with the Head of Legal Services
Authorise any Officer to or for any legal purpose including Statutory Officer appointments.	Unless otherwise prescribed by law or allocated to Council in Part C.
Make arrangements with other local authorities for the placing of staff at the disposal of those other authorities.	
Authorise requests for investigations under the Regulation of Investigatory Powers Act 2000	

Chief Executive	
and to maintain a register of investigations authorised under the Act.	
The Chief Executive may take any necessary action on behalf of the Council in respect of the function of emergency planning and shall sub-delegate the same to the Managing Director of Publica Group Ltd	

Deputy Chief Executive	
Function	Condition
Discharge any Executive Function which is delegated to an Officer (including the Chief Executive) under this Part C	Where that Officer is absent or unable to act through conflict of interest or otherwise.
Undertake the role of Chief Executive	Where the Chief Executive is absent or unable to act through conflict of interest or otherwise. This Function falls to the Deputy Chief Executive or Monitoring Officer who is deputising for that period.
Undertake emergency planning and civil defence functions.	

## 5.10 Cabinet, Cabinet Member Portfolios and Decision making by Individual Cabinet Members

Cabinet	
1	The Cabinet will bear the responsibility for any of the local authority's functions which are delegated to it by the Leader.
2	The Leader will publish a Forward Plan at least monthly, showing a twelve-month programme of work and those decisions which are "Key Decisions", and also those decisions that may be made by an Individual Cabinet

### 5.10.1 Decisions by Individual Cabinet Members

Decision making by Individual Cabinet Members applies only to Executive functions that have been delegated by the Leader. The process does not apply to any function exercised by Council itself, or that Council has delegated to a Committee, Sub-committee or Officer. Individual Cabinet Members are empowered to make all executive decisions in respect of their own portfolio area of responsibility except:

- a) Decisions already taken by Cabinet or an Officer acting under delegated powers.
- b) Decisions involving a departure from the Council's Budget or Policy Framework or any Cabinet or regulatory committee policy.
- c) Decisions which the Leader wishes to be taken by the full Cabinet or a decision which the Cabinet Member has asked to be taken collectively by the full Cabinet.
- d) Where at least 3 Members of the Council request that a decision be taken

by the full Cabinet.

provided that all such decisions will be taken by the decision maker having regard to the advice of the Monitoring Officer and Deputy Chief Executive in interpreting these provisions.

### **5.10.2 Cabinet Portfolios**

Individual Cabinet Members are empowered by the Leader to make all executive decisions in respect of their own portfolio area of responsibility.

The allocation of portfolios to Cabinet Members will be reported to Council by the Leader of the Council from time to time.