

RUTLAND COUNTY COUNCIL DISTRICT COUNCIL CONSTITUTION

PART 3 - RESPONSIBILITY FOR FUNCTIONS

1. COUNCIL RESPONSIBILITIES

- 1) The Functions specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) are the Council's responsibilities and cannot be an executive responsibility. See the schedule at the end of this Part of the Constitution. In addition, the following functions are also the responsibility of the Council:
 - a) Imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted in relation to a function specified in Schedule 1 to the above Regulations or arising from a function not exercised by the executive in relation to a Local Act.
 - b) Determining any other terms to which any such approval, consent, licence, permission or registration in a) above is subject.
 - c) Any failure to comply with an approval, consent, licence, permission or registration arising from paragraph a) above.
 - d) Any failure to comply with a condition limitation or term to which any approval, consent, licence, permission or registration in a) above is subject.
 - e) Any other contravention in relation to a matter with regard to the function of determining an application for approval, consent, licence, permission or registration.
 - f) The amendment, modification, or variation of any such approval, consent, licence, permission or registration in paragraph a) or any condition, limitation or term to which is subject.
 - g) The revocation of any such approval, consent, licence, permission or registration in paragraph a).
 - h) The function of making any scheme authorised or required by Regulations under Section 18 (Schemes for Basic, Attendance and Special Responsibilities Allowances for Local Authority Members) of the Local Government and Housing Act 1989 or of amending, revoking or replacing any such scheme. (No further delegation of this function is allowed).
 - i) The function of determining the amount of any allowance payable under:
 - i) Sub-Section (5) of Section 3 (Chairman's expenses) of the 1972 Act;
 - ii) Sub-Section (4) of Section 5 (Vice-Chairman's expenses) of the 1972 Act;
 - iii) Sub-Section (4) of Section 173 (Financial Loss Allowance) of the 1972 Act;
 - iv) Section 175 (Allowances for Attending Conferences and Meetings) of the 1972 Act. (No further delegation of this function is allowed)

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- j) The function of determining the rates at which payments are to be made under Section 172 (Travelling and Subsistence Allowances) of the 1972 Act. (No further delegation of this function is allowed)
 - k) The function of determining the amount of any allowance payable pursuant to a scheme under Section 18 of the Local Government and Housing Act 1989, or the rates at which payments by way of such allowance are to be made. (No further delegation of this function is allowed)
 - l) Whether a charge should be made for any approval, consent, licence, permit or registration, the issue of which is not the responsibility of the executive.
 - m) Where a charge is made in l), the amount of that charge.
 - n) The function of making arrangements for the discharge of Council functions by a Committee or officer under Section 101 (5) of the 1972 Act.
 - o) The function of making appointments to Committees responsible for Council functions under Section 100 (2) of the 1972 Act.
 - p) Any other function of the Council by virtue of any enactment passed or made before 19 October 2000 (the date of the making of the Regulations in 1.1 above) which may only be discharged by the Council unless the Regulation above allow for it to be an executive function.
- 2) The following functions are also reserved to the Council and will not be an executive responsibility:
- a) Setting the precept requirements and setting the Council Tax for the year.
 - b) Making a bye-law.
 - c) Promoting a private or local legislation or adopting adoptive legislation.
 - d) Making a compulsory purchase order.
 - e) Establishing Committees and delegation of powers and duties to Committees or varying such powers and duties.
 - f) Reviewing the allocation of seats on Committees or Sub-Committees.
 - g) Making, adopting or amending Procedure Rules.
 - h) Deciding any of the Council's strategic objectives or policies.
 - i) Determining the Council's development proposals in the event of a conflict between a Council Committee and a planning application submitted by the Cabinet.
 - j) Determining the revocation or modification of planning permissions involving the payment of compensation.

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2. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

- 1) The functions listed in the following table are functions which the Council may choose whether they shall be an executive responsibility or not. The Council has decided the functions shall be the responsibility of the decision making body shown against the functions.

	FUNCTION	DECISION MAKING BODY	MEMBERSHIP	DELEGATION OF FUNCTIONS
1	Determination of an appeal against any decision made or on behalf of the Council	Panel appointed by the Chief Executive.		
2	Appointment of Review Boards under Section 34(4) of the Social Security Act. (Determination of claims and reviews)			Function ceased on 1 July 2001
3	Making arrangements in relation to appeals against exclusion of pupils from maintained schools – Section 67 of the Schools Standards and Framework Act 1998	Cabinet	Leader and up to nine other members of the Council	Director for People to notify an appeal has been lodged Panels appointed by the Monitoring Officer Panels to be called, serviced and advised by the Head of Legal Services
4	Making arrangements for the admission appeals. Section 94 (1, 1A and 4) of the Schools Standards and Framework Act 1998	Cabinet	Leader and up to nine other members of the Council	Director People to notify an appeal has been lodged Panels appointed by the Monitoring Officer Panels to be called, serviced and advised by the Head of Legal Services
5	Making arrangements for appeals by governing bodies. Section 95 (2) of the Schools Standards and Framework Act 1998.	Cabinet	Leader and up to nine other members of the Council	Director for People

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6	Making arrangements for questions on police matters at meetings of the Council	Cabinet	Leader and up to nine other members of the Council	
7	Making appointments to the Police Authority	Council	All members of the Council	
8	Conducting Best Value Reviews	Cabinet	Leader and up to nine other members of the Council	
9	Any function relating to contaminated land. Part IIA of the Environmental Protection Act 1990	Cabinet	Leader and up to nine other members of the Council	
10	Discharge of any function relating to the control of pollution or the management of air quality under the Pollution Prevention and Control Act 1999, Part IV of the Environment Act 1995, Part I of the Environmental Protection Act 1990 and the Clean Air Act 1993	Cabinet	Leader and up to nine other members of the Council	
11	Service of an abatement notice in respect of a statutory nuisance. Section 80(1) of the Environment Protection Act 1990	Cabinet	Leader and up to nine other members of the Council	
12	Passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area Section 8 of the Noise and Statutory Nuisance Act 1993	Council	All members of the Council	
13	Inspection of the Council's area to detect any statutory nuisance. Section 79 of the Environmental Protection Act 1990.	Cabinet	Leader and up to nine other members of the Council	

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14	Investigation of any complaint as to the existence of a statutory nuisance. Section 79 of the Environmental Protection Act 1990.	Cabinet	Leader and up to nine other members of the Council	
15	Obtaining information under Section 330 of the Town and Country Planning Act as to interests in land	Cabinet	Leader and up to nine other members of the Council	
16	Obtaining information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to persons interested in land: a) in connection with functions which are the responsibility of the Cabinet b) in connection with functions which are the responsibility of the Council	Cabinet Development Control and Licensing Committee	Leader and up to nine other members of the Council 12 members of the Council	
17	Making agreements for the execution of highways works under Section 28 of the Highways Act 1980: a) in connection with the improvement of highways b) in connection with development control	Cabinet Council	Leader and up to nine other members of the Council All members of the Council	
18	Making and revocation of appointments of any individual other than an office in which he is employed by the Council: a) in connection with functions which are the responsibility of the Cabinet b) in connection with functions which are the responsibility of the Council	Cabinet Council	Leader and up to nine other members of the Council All members of the Council	

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COMMITTEE	MEMBERSHIP	FUNCTIONS
Development Control and Licensing Committee	12 members of the authority who shall have attended approved training in the quasi-judicial functions of the Committee.	<p>Planning and conservation</p> <p>Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations)</p> <p>Commons registration</p> <p>The registration of common land or town and village greens and to register the variation of rights of common as set out in Schedule 1 to the Functions Regulations</p> <p>Highways use and regulation</p> <p>The exercise of powers relating to the regulation of the use of highways as set out in Schedule 1 to the Functions Regulations</p> <p>Taxi, gaming, entertainment, food and miscellaneous licensing</p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p> <p>Health and safety</p> <p>Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as employer</p> <p>Scrap Metal Dealers</p> <p>To hear, consider and determine applications for scrap metal dealer licences where objections are received.</p>
Employment and Appeals Committee	7 members of the authority who shall have attended approved training in the quasi-judicial function of the Committee.	<p>To hear, consider and determine appeals against dismissal, grading and grievances by employees of the Council</p> <p>To consider and approve HR policies (this requires two thirds voting members present to approve a policy subject to its financial impact not exceeding the virement threshold of the Director for Resources. If this cannot be achieved the policy in question will be referred to Full Council for further consideration and determination).</p> <p>To hear, consider and determine any other appeals made under a statutory appeals process where no other appeals body has been established for the specific purpose</p>
Licensing Act Committee	10 members of the authority who shall have attended approved training in the quasi-judicial functions of the Committee.	<p>To oversee the discharge of all licensing functions of the Council as the licensing authority under the Licensing Act 2003 and the Gambling Act 2005, except the determination of the Council’s Statement of Licensing Policy and Statement of Gambling Policy and the publication of those Statements. The Committee may, however, make recommendations on that Policy, amendments to it and its publication to the Council.</p> <p>To establish Panels (sub-committees) to determine matters regarding personal licences, premises licences, club premises certificates, provisional statements, designated premises supervisor, interim</p>

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<p>Licensing Act Committee Continued</p>		<p>authorities, temporary event notices and objections as consultee; and within the Gambling Act 2005 regarding premises licences and permits relating to casinos, bingo premises, betting premises, tracks, adult gaming centres, club games and prize gaming premises, temporary use notices and the registration of small societies.</p> <p>To arrange for the discharge of the functions governed by the Licensing Act 2003 and the Gambling Act 2005 by one or more Panels (sub-committees) or by officers.</p> <p>To receive and consider annual reports, where appropriate, on the needs of the local tourist economy, employment and investment in the area and any other matter directly relating to the Licensing Act and Gambling Act functions in the County.</p> <p>To direct officers to report to the Development Control and Licensing Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.</p>
<p>Conduct Committee</p>	<p>6 members of the authority, 2 parish council representatives as non-voting co-optees, and 1 Independent Person as a non-voting co-optee</p>	<p>The promotion and maintenance of high standards of conduct within the Council, including:</p> <p>To advise the Council and parish councils on the adoption or revision of their Code of Conduct.</p> <p>To monitor and advise the Council and parish councils about the operation of their Code of Conduct.</p> <p>To assess, consider and determine complaints of breaches of a Code of Conduct.</p>
<p>Audit and Risk Committee</p>	<p>5 members of the authority and 1 independent member as a voting co-optee</p>	<p>To provide assurance of the adequacy of the risk management framework and control environment, scrutiny of the authority's financial and non-financial performance in that context, and oversee the financial reporting process, including:</p> <p>To review summary internal audit reports and actions arising from them.</p> <p>To consider reports of external audit and inspection agencies and monitor action arising from them.</p> <p>To monitor the effective development and operation of risk management and corporate governance.</p> <p>To monitor the effectiveness of the whistleblowing and anti-fraud and anti-corruption policies.</p> <p>To approve the annual governance statement.</p> <p>To approve the annual statement of accounts for publication.</p>

4. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

- 1) The Cabinet is the body responsible for executive functions. The Cabinet has not delegated any of its functions to a Committee of the Cabinet.

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WHO IS RESPONSIBLE	MEMBERSHIP	FUNCTIONS	ONWARD LIMITS ON DELEGATION	WHO IS RESPONSIBLE
To be completed if and when any functions are delegated to a Committee of the Cabinet				

- 2) The table below shows delegations of executive functions to individual Members of the Cabinet.

WHO IS RESPONSIBLE	MEMBERSHIP	FUNCTIONS	ONWARD LIMITS ON DELEGATION	
To be completed if and when Article 7.08 is amended or deleted and any functions are delegated to an individual Member of the Cabinet				

- 3) The executive functions which have been delegated by the Cabinet to officers are contained in the general scheme of delegation to officers which appear in Section 6 of this Part of the Constitution and in the record of specific delegations maintained by the Monitoring Officer which forms Part 8 of this Constitution

5. GENERAL SCHEME OF DELEGATION POWERS

- 1) All Committees of the Council and the Cabinet are empowered by this Scheme to:
- a) Exercise all powers and duties within their responsibility of functions.
 - b) Authorise negotiations for, and approval of purchase, on terms recommended by a valuer appointed by the Council or the District Valuer of property or an interest in property for approved schemes and programmes within their responsibility of functions.
 - c) Authorise negotiations, and approval of terms, for the disposal of land or property within their control.
 - d) Authorise legal proceedings subject to the Chief Executive being satisfied as to evidence.
 - e) Deal with all matters including to fix or amend fees, charges and rents etc., for matters within their responsibility, save only in respect of matters specifically delegated to Officers unless otherwise resolved by the Committee or the Cabinet
 - f) Incur any expenditure covered by annual or supplementary estimates for functions within their responsibility.

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6. GENERAL SCHEME OF DELEGATION TO THE CHIEF EXECUTIVE, CHIEF OFFICERS AND OTHER OFFICERS

- 1) Any delegation powers exercised by officers shall:
 - a) comply with the Access to Information Procedure Rules in relation to key decisions, Financial Procedure Rules and Contract Procedure Rules within this Constitution.
 - b) not authorise expenditure except in accordance with the approved budget or capital programme and where further approval is required shall not proceed until that approval is obtained;
 - c) not involve a new policy or extend an existing policy of the Council unless this is within the powers of the delegation;
 - d) be in accordance with any approved scale or scheme and any directions of the Cabinet or other relevant body; and
 - e) be subject to any other appropriate professional or technical consultation with an officer of the Council prior to the power being exercised in any case involving professional or technical considerations which are not within the province of the officer exercising the power of delegation.
- 2) Any delegation to an officer may be exercised on his behalf by a competent officer authorised by him generally or specifically for that purpose.
- 3) Delegation to officers shall be without prejudice to the overriding right of the Council, its Committees or Sub-Committees, the Cabinet or a Committee of the Cabinet or any other relevant body to decide any matter for which it has the responsibility under the Local Government Act 2000 to take a decision or to call for information about a particular case or class of case relevant to its competence. An officer may, in any event, decide not to exercise the power of delegation and request the body which authorised the delegation to determine the matter.
- 4) Subject to the above, officers will be expected to make such decisions and initiate such action as they deem necessary in the interests of the efficient running of services and staff which are their responsibility.
- 5) References to 'staff' and 'employees' in this General Scheme of Delegation do not include teachers employed by schools.

A DELEGATION TO THE CHIEF EXECUTIVE

- 1) The Chief Executive is empowered by this Scheme to:
 - a) exercise or arrange for the performance of any of the powers or duties of any other officer if considered necessary, in the interests of the efficient administration of the Council's service;

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- b) investigate and exercise the Council's right of reply in respect of all complaints of maladministration made to the Local Government Ombudsman, other than those where a complaint is made against a Member or Members of the Council or the Chief Executive;
- c) exercise concurrently with the Cabinet the functions of the Council under the Civil Defence Acts and under any other statutes, rules, orders or regulations imposing function of a like kind or in respect of wartime or peacetime emergencies, and the power to act on behalf of the Council in respect of any apprehended, imminent or actual emergency or disaster involving destruction of or danger to life or property subject to consultation with any such Member as he may consider appropriate;
- d) sign any instrument or Deed on behalf of the Council authority for which has been given either by Council Committee, Sub-Committee, Cabinet, Cabinet Committee or under the Scheme of Delegation to officers;
- e) to deal as Parish Trustee, with applications for dispensation under Section 97 of the Local Government Act 1972 unless they are of such a sensitive nature as to require them being considered by the Cabinet;
- f) to take such immediate steps in the event of an emergency or situation within the Council requiring immediate action to exercise full delegated powers as may be necessary and report these to the next meeting of the Cabinet and the Council;
- g) in the absence of the Chief Executive these powers may be exercised by the Acting Head of the Paid Service;

B DELEGATION TO ANY CHIEF OFFICER and THE CHIEF EXECUTIVE

- 1) The Chief Executive or any Chief Officer is empowered by this Scheme to:
 - a) grant way leaves for public services and drainage easements over land owned by the Council, subject to consultation with the Chief Executive and other Chief Officers where necessary;
 - b) issue any statutory notice or other notice or order needed in connection with the exercise of delegated powers by any Committee, Sub-Committee, the Cabinet or Cabinet Committee or Officer;
 - c) confirm any Order made by the Council, whether through a Committee, Sub-Committee, the Cabinet or Cabinet Committee or Officer, following the expiration of any statutory period allowed for objections provided that no adverse representations have been received or if received are withdrawn;
 - d) enforce any statutory notice or order given or made by the Council whether through a Committee, Sub-Committee, the Cabinet or Cabinet Committee or Officer;
 - e) authorise attendance of staff at training courses in accordance with the established training policy and approved budget provision;

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- f) appoint staff, including teachers, consultants, temporary and relief staff, up to any authorised levels within the approved procedures and to dismiss or otherwise discipline staff in accordance with the approved disciplinary procedure;
- g) issue press statements after consultations where necessary with the Chairman of any Committee, Sub-Committee, Scrutiny Panel or Cabinet affected by the subject matter of any statement;
- h) authorise payment or charge for any item or service in accordance with Financial Procedure Rules;
- i) approve financial terms for the use of the Council's services or facilities by external bodies;
- j) request the Director for Resources to arrange insurance cover and to negotiate insurance claims;
- k) request information and available powers, e.g. Section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
- l) be responsible for the discharge of functions, duties or powers of the Council or its Committees or Sub-Committees, the Cabinet or Cabinet Committee which in the opinion of the Officers are deemed urgent, after first consulting so far as practicable representatives of the political groups represented and to report back action taken;
- m) institute legal proceedings on behalf of this Council and to appear on behalf of this Council in any legal proceedings in which this Council has an interest.

C DELEGATION TO OTHER OFFICERS

- 1) The executive and non-executive functions which have been delegated by the Council or Cabinet to officers are contained in the record of specific delegations maintained by the Monitoring Officer which forms Part 8 of this Constitution, and is available for public inspection at Catmose during normal working hours.

D PROPER OFFICER APPOINTMENTS

- 1) The designation of Proper Officer Appointments to individual officers of the Council are contained in the record of specific delegations maintained by the Monitoring Officer which forms Part 8 of this Constitution, and is available for public inspection at Catmose during normal working hours.