

# WHO DOES WHAT

<b>3. Council responsibilities and executive responsibilities</b>	<b>3-1</b>
<b>4. Who carries out executive responsibilities?</b>	<b>4-1</b>
<b>5. Who carries out Council responsibilities and roles of decision taking committees</b>	<b>5-1</b>
<b>6. Roles of scrutiny bodies</b>	<b>6-1</b>
<b>7. Roles of officers</b>	<b>7-1</b>
<b>8. Scheme of delegation to officers</b>	<b>8-1</b>

## **Chapter 3 . COUNCIL RESPONSIBILITIES AND EXECUTIVE RESPONSIBILITIES**

<b>3.1 Council responsibilities and executive responsibilities</b>	<b>3-1</b>
<b>3.2 Delegation of responsibilities</b>	<b>3-1</b>
<b>3.3 How delegation works</b>	<b>3-2</b>
<b>3.4 Interpreting the rules on delegation</b>	<b>3-2</b>
<b>3.5 Local choice responsibilities</b>	<b>3-3</b>
<b>3.6 Advisory bodies and working parties</b>	<b>3-4</b>
<b>3.7 Delegation to and from other local authorities</b>	<b>3-7</b>

### **3.1 Council responsibilities and executive responsibilities**

The law divides the Council's work into three categories:

- Council responsibilities – these are the responsibility of full Council but can be delegated to committees or officers.
- Executive responsibilities – these are the responsibility of the Leader but can be allocated to Cabinet, Cabinet committees, Cabinet members or officers.
- Local choice responsibilities – it is up to the Council whether these are Council responsibilities or Executive responsibilities.

### **3.2 Delegation of responsibilities**

Full Council can delegate some of their responsibilities to committees and officers and the Leader can delegate some of his or her responsibilities to the Cabinet, committees of the Cabinet, single Cabinet members and officers. Details of this are in Sections 4, 5 and 8. Full Council and the Leader cannot delegate to each other.

At the annual meeting of full Council, the Leader will submit a report setting out the allocation of functions made by him or her. The report will contain the following information:

- the size of the Cabinet and the names of the Councillors appointed to the Cabinet
- the extent of any functions delegated to individual Cabinet members, including details of the limitation on their authority
- the responsibilities and constitution of any Cabinet committees and the names of the Cabinet members appointed to them

- the nature and extent of any delegation to officers with details of any limitation on that delegation.

The Leader may amend the size and composition of the Cabinet and the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person or body concerned. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

### **3.3 How delegation works**

A body or person can at any time take back responsibilities they have delegated or decide to delegate them on certain conditions.

Officers do not have to use their delegated powers: they can ask the body or person that delegated them to decide.

The Chief Executive, directors and heads of service who have had something delegated to them can authorise other officers to do it on their behalf (unless it was delegated on condition that they do it themselves).

When exercising delegated powers an officer shall always have regard to the requirements of the Constitution, the financial, legal and human resource implications of the decision and shall consult with staff in another service area if the decision is likely to impact on the work of that service area.

Any substantive or significant decision and the reasons for that decision shall be recorded in an appropriate manner.

The Chief Executive may authorise one officer to exercise the delegated powers of another officer (or exercise those delegated powers him or herself) in the absence of the officer holding the delegated powers. In addition, directors may exercise the delegated powers of any head of service in their directorate in the absence of that head of service if no sub-delegations have been put in place by the head of service and there is a need for a decision to be taken prior to the return of the head of service.

### **3.4 Interpreting the rules on delegation**

When a responsibility is delegated in this Constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).

The exercise of delegated powers should involve each case being considered on its merits and that the decision taker should exercise discretion where that is appropriate.

### 3.5 Local choice responsibilities

The Council has allocated local choice functions as follows.

<b>Function</b>		<b>Responsible Body</b>
(i)	Any function under the Leicestershire Act 1985 other than a function specified or referred to in regulation 2 or Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Cabinet
(ii)	The determination of all employment related appeals where an appeal to councillors is provided for in the Council's procedures	Personnel Committee
(iii)	The determination of appeals against a decision in respect of the waiving of the repayment of right to buy discounts	Cabinet
(iv)	The determination of all appeals against a decision made by or on behalf of the Council except those referred to in (ii) and (iii) above	Appeals and Reviews Committee
(v)	Conducting Best Value Reviews	Cabinet
(vi)	Any function relating to contaminated land	Cabinet
(vii)	The formulation of plans and policies relating to the control of pollution, management of air quality and statutory nuisances	Cabinet
(viii)	Compliance with the Council's plans and policies relating to the control of pollution, management of air quality and statutory nuisances, including consideration of the annual air quality progress report	Cabinet

<b>Function</b>		<b>Responsible Body</b>
(ix)	Obtaining information under Section 330 of the Town & Country Planning Act 1990 as to interests in land	Plans Committee
(x)	Obtaining information under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 as to interests in land	Cabinet
(xi)	The making of agreements for the execution of highways works	Plans Committee
(xii)	Appointments to outside organisations and the revocation of such appointments except where the appointment is a Council function	Cabinet
(xiii)	Making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Council

These functions may be delegated by the Responsible Body as set out in the scheme of delegation.

### **3.6 Advisory bodies and working parties**

#### **(a) General**

The Council, the Cabinet, the Leader, the Chief Executive and, in consultation with the Chief Executive and the Head of Democracy, directors and heads of service, may from time to time establish member reference groups, working parties, advisory bodies, project boards or other suitable groups which include in their membership Councillors and/or officers and/or representatives from partner organisations or the local community.

These are not constituted as committees or sub-committees and are not authorised to make decisions on behalf of the Council. A list of such bodies is maintained by the Head of Democracy who will also be responsible for making appointments to those bodies.

## **(b) Housing Management Advisory Board**

### **Introduction and purpose**

The Council has established a Housing Management Advisory Board to oversee the activities of the landlord service.

The Board's focus is to offer challenge and gain assurance that the Council is listening to customers, delivering high quality services, and is compliant with its regulatory responsibilities as a social housing landlord.

### **Membership and appointment**

The board will comprise the following members:

- six tenants/leaseholders, selected by a panel comprising the strategic director, lead officer for tenant participation, a representative of a recognised independent tenant participation organisation and other Borough council officers if deemed appropriate by the strategic director, appointed for a period of three years providing the person continues to be a tenant/leaseholder;
- three borough councillors, who must not be cabinet members or cabinet support members, appointed annually on the basis of political balance;
- one person who is independent of the Council, selected by a panel comprising the strategic director, lead officer for tenant participation, two representatives from the Charnwood Housing Residents Forum and other borough council officers if deemed appropriate by the strategic director, appointed for a period of three years and confirmed annually by the board.

Any member can resign from the board by giving notice to the director. Appointments to vacancies will be made in the same way as the original appointment and will be for the remainder of the resigning member's term of office.

All members will make a declaration at each meeting if they have an interest in any item of business on the agenda which would affect them more than tenants or residents of the ward(s) affected generally.

### **Chair and vice-chair**

The chair of the Housing Management Advisory Board will be appointed annually by the board from among the tenant/leaseholder members. The board may appoint a vice-chair from among its members.

Where appropriate the chair will act as spokesperson for the board.

## **Frequency and notice of meetings**

Meetings will take place every two months and notice of and an agenda for each meeting will be sent to every member of the board by the council at least five clear working days before the meeting.

The board will agree a programme of meetings for the forthcoming year annually. The programme of meetings can be varied by the council with the agreement of the Chair.

## **Quorum**

The quorum for meetings of the board will be five members, at least two of whom must be tenants/leaseholders.

## **Decisions of the board and minutes of meetings**

Any issues before the board will be decided on the basis of a majority of the members and co-opted members present and voting.

Minutes of board meetings will be taken by the Council and submitted to the next meeting of the board for approval as a correct record. Except where they would disclose exempt of confidential information, the council will publish the minutes of board meetings on its website.

## **Functions of the board**

The Board will have oversight of all relevant matters relating to regulatory assurance and the council's landlord functions.

This will include:

- Monitoring compliance with the consumer standards in the Regulatory Framework
- Monitoring compliance with statutory health and safety requirements
- Reviewing high-level performance including the Tenant Satisfaction Measures
- Monitoring that value for money is achieved in service delivery
- Scrutinising and providing challenge as part of delivering co-regulation of the housing landlord service
- Oversight of customer feedback, complaints management and tracking how learning from complaints is improving services
- Reviewing the HRA budget and the housing investment programme
- Reviewing the Landlord Service Annual Service Plan and key projects
- Reviewing risk and risk management arrangements
- Reviewing draft reports on key decisions to be taken by the Cabinet or Council
- Being consulted on and advising the Director/Heads of Service on key changes to strategy, key policies, significant service changes and development proposals
- Maintaining an overview of the development and effectiveness of customer engagement and assurance that the customer voice is

Where those reports relate to items which will be submitted to the council's cabinet, the comments and recommendations of the board will be submitted to cabinet with the officer report. The chair or vice-chair of the board will have the right to address cabinet to present the board's comments and recommendations.

### **(c) Loughborough Area Committee**

The Council has established the Area Committee with the following advisory functions:

- To carry out a consultative role in relation to budgetary and financial issues which either solely or predominantly affect the Loughborough town area.
- To carry out a consultative role in relation to matters of policy and strategic direction which relate to or affect the Loughborough town area.

The Committee will have two scheduled online meetings per year, one in December to allow for consultation during the budget setting process for the Loughborough special expenses, and one in October to consider an annual report regarding activities and issues affecting the Loughborough town area.

Further meetings may be called under the relevant provisions within the Constitution, but any business to be considered by the Committee must be in accordance with its consultative roles as set out above.

Any consultation responses made by the Committee should be collective submissions, arrived at and agreed in accordance with the relevant meeting procedures within the Constitution.

The Committee cannot commission or request reports from officers, other than as may be required to assist it with business being undertaken in its consultative roles.

### **3.7 Delegations to and from other local authorities**

The Council has made the following delegations to other local authorities.

The Council's off-street parking notice processing function has been delegated to the Executive of Leicestershire County Council.



The Council's parking enforcement adjudication function has been delegated to the Parking and Traffic Regulations Outside London Adjudication Joint Committee.

The Council has accepted the following delegations from other local authorities.

Functions for Decriminalised Parking Enforcement in respect of on-street parking have been accepted from Leicestershire County Council. This is an executive function.

The Council is one of the authorities that has established and is represented on the Police and Crime Panel for the area of the Leicestershire Police.

## **Chapter 4 . WHO CARRIES OUT EXECUTIVE RESPONSIBILITIES?**

<b>4.1 Need to act within the budget policy framework</b>	<b>4-1</b>
<b>4.2 Gaps in the policy framework</b>	<b>4-1</b>
<b>4.3 Need to follow the Constitution</b>	<b>4-1</b>
<b>4.4 Delegation to officers</b>	<b>4-1</b>
<b>4.5 Decisions that must be agreed by the Cabinet or a committee of the Cabinet</b>	<b>4-2</b>
<b>4.6 Responsibilities not covered by these rules</b>	<b>4-2</b>

### **4.1 Need to act within the budget and policy framework**

Executive responsibilities must be carried out within the budget and policy framework.

### **4.2 Gaps in the policy framework**

Where a policy or strategy within the policy framework is silent on a matter under consideration the Leader (or the Cabinet, a committee of the Cabinet, or any Cabinet members or officers the Leader has delegated to) can do anything within the law in relation to that matter.

### **4.3 Need to follow the Constitution**

Executive responsibilities must be carried out in a way that follows the Constitution, the financial procedure rules and the contract procedure rules.

### **4.4 Delegation to officers**

The executive responsibilities delegated to officers are set out in section 8.3.

An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and
- the Constitution or the law does not require it to be carried out by someone else.

#### **4.5 Decisions that must be agreed by the Cabinet or a committee of the Cabinet**

All Executive decisions which are not delegated to officers, a single Cabinet member or a committee of the Cabinet must be agreed by the Cabinet.

##### Committee of the Cabinet

In accordance with the Council's policy on the repayment of right to buy discounts, a committee of the Cabinet consisting of three members of the Cabinet, to be selected by the Head of Democracy, sits as the appeals panel to determine any appeals against decisions on the waiver of the repayment of discounts on the basis of written representations.

##### Single Cabinet Member Delegations

The following single Cabinet Member delegations are in place:

- Delegation to the Lead Member for Community Support to make decisions on grant awards under the Member Grants scheme where a councillor has a personal interest that might lead to bias in relation to the matter, except in cases where the Lead Member for Community Support has a personal interest that might lead to bias in relation to the matter.
- Delegations to the Leader of the Council, or in his/her absence to the Deputy Leader of the Council;
  - To approve the purchase of commercial properties in accordance with the relevant parameters set out in the current Capital Strategy
  - To approve the sale of commercial properties where it is considered expedient and, in the Council's, best interests

#### **4.6 Responsibilities not covered by these rules**

If a responsibility does not have to be carried out by the Cabinet or a Cabinet member and no one has budgetary and management responsibility for it, the Leader will arrange for it be carried out by the Cabinet, a committee of the Cabinet, a Cabinet member or an officer.

## **Chapter 5 . WHO CARRIES OUT COUNCIL RESPONSIBILITIES AND ROLES OF DECISION TAKING COMMITTEES**

<b>5.1 Who carries out Council responsibilities?</b>	<b>5-1</b>
<b>5.2 Need to follow the Constitution</b>	<b>5-1</b>
<b>5.3 Delegation to officers</b>	<b>5-1</b>
<b>5.4 Decisions that must be agreed by the Council</b>	<b>5-1</b>
<b>5.5 Roles of decision taking Committees</b>	<b>5-1</b>

### **5.1 Who carries out Council responsibilities?**

Council responsibilities can be carried out by full Council, a committee of the Council, a sub-committee or an officer. Some Council responsibilities cannot be carried out by an officer and others must be carried out by full Council. The responsibilities of the Council's committees and sub-committees are set out in section 5.5 and the responsibilities delegated to officers are set out in section 8.2.

### **5.2 Need to follow the Constitution**

Council responsibilities must be carried out in a way that follows the Constitution, the financial procedure rules and the contract procedure rules.

### **5.3 Delegation to officers**

The Council responsibilities delegated to officers are set out in section 8.2.

An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and
- the Constitution or the law does not require it to be carried out by someone else.

### **5.4 Decisions that must be agreed by the Council**

All Council decisions which are not delegated to officers, a committee of the Council or a sub-committee must be agreed by the Council.

### **5.5 Roles of decision taking Committees**

References below to panels should be interpreted as referring to the sub-committees described in relevant legislation.

**(a) Appeals and Reviews Committee**

<b>Functions</b>	<b>Delegation</b>
1. To consider and determine appeals against: (i) decisions taken by the Council on the grant of National Non-domestic Rates relief; (ii) any other Council decision, except those relating to employment matters, where an appeal to members is provided for in law or the Council's procedures.	No delegation
2. To determine objections to tree preservation orders.	The Appeals and Reviews Committee will follow the Procedure Rules for tree preservation order appeals when exercising this function.
3. To consider and determine appeals by councillors against decisions made by the Member Conduct Panel	The Appeals and Reviews Committee will follow the Procedure Rules for dealing with complaints about member conduct when exercising this function.

**Members are recommended to attend any appropriate training prescribed by the Head of Democracy before attending any Appeals and Review Committee meetings.**

**(b) Audit Committee**

<b>Functions</b>	<b>Delegation</b>
<p data-bbox="237 306 350 340"><u>General</u></p> <p data-bbox="237 382 932 596">1. To refer matters of concern to the Council, Cabinet, or appropriate committee. The Chair or Vice-chair of the Committee may address the Cabinet, or a committee and the Vice-chair of the Committee may address the Council before the report is considered.</p> <p data-bbox="237 638 415 672"><u>Audit activity</u></p> <p data-bbox="237 714 961 890">2. To consider the head of internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.</p> <p data-bbox="237 932 948 999">3. To consider summaries of specific internal audit reports as requested.</p> <p data-bbox="237 1041 938 1142">4. To consider reports dealing with the management and performance of the providers of internal audit services.</p> <p data-bbox="237 1184 961 1285">5. To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.</p> <p data-bbox="237 1327 938 1436">6. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.</p> <p data-bbox="237 1478 932 1545">7. To consider specific reports as agreed with the external auditor.</p> <p data-bbox="237 1587 948 1654">8. To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p data-bbox="237 1696 902 1797">9. To liaise with the appropriate person or body over the appointment of the council's external auditor.</p>	<p data-bbox="990 306 1192 340">No delegation</p>

10. To commission work from internal and external audit.

Regulatory framework

11. To maintain an overview of the council's constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.

12. To review any issue referred to it by the chief executive, a director or a head of service, or any council body.

13. To monitor the effective development and operation of risk management and corporate governance in the council.

14. To monitor council policies on 'Raising Concerns at Work' and the anti-corruption strategy and the council's complaints process.

15. To oversee the production of the authority's Governance Statement and to recommend its adoption.

16. To consider the council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.

17. To consider the council's compliance with its own and other published standards and controls.

18. To consider the Council's treasury management control and investment control arrangements.

Accounts

19. To approve the Authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts under the Accounts and Audit Regulations as amended.

20. To consider whether appropriate accounting policies have been followed and whether there are

concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

21. To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Regulation of Investigatory Powers Act (RIPA)

22. To consider the use of RIPA and report to Cabinet any concerns that may indicate that this is not consistent with the Council's Policy for the use of RIPA or that the Policy may not be fit for purpose. The Chair or Vice-chair of the Committee may address the Cabinet before any report to Cabinet is considered

**Members of the Audit Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

**Other councillors are allowed to substitute for members of the Audit Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term.**



### (c) Licensing Committee

<b>Functions</b>	<b>Delegation</b>
1. All those functions for which the Council is responsible relating to licensing and registration set out in Regulation 2 and Schedule I of the Regulations	The Head of Regulatory and Community Safety is authorised to exercise the powers set out in section 8 of the Constitution.
2. To recommend the Council to approve or revise the Statement of Licensing Policy	No delegation
3. In those cases where a relevant representation has been received, to discharge the Council's responsibility under the Licensing Act 2003 for determining the following: (i) application for a personal licence; (ii) application for a premises licence or club premises certificate; (iii) application for a provisional statement; (iv) application for variation to a premises licence or club premises certificate; (v) application to grant or vary the licence so as to specify the designated premises supervisor; (vi) application for transfer of a premises licence; (vii) application for interim authority; (viii) application for a temporary event notice.	Items 3, 4, 6, 7, 9, 10, 11 ad 12 have been delegated to the Licensing Sub-committee.  The Licensing Sub-committee when considering premises licences and associated functions under the Licensing Act 2003 will comprise three members chosen by the Head of Democracy on the basis of availability from the members of the Committee so that it includes at least one of the Chair or Vice-chairs of the Committee, where possible. The Licensing Subcommittee will follow the Procedure Rules for licensing hearings when exercising these functions.
4. To determine the following matters concerning the discharge by the Council of its licensing functions under the Licensing Act 2003: (i) application for a personal licence where there are relevant unspent convictions; (ii) the review of a premises licence or club premises certificate; (iii) decision to object where the local authority is the consultee and not the relevant authority considering the application; (iv) a police objection to a temporary event notice.	The Licensing Sub-committee when considering matters relating to Hackney Carriage and Private Hire Licensing will comprise four members (with a minimum of three members needing to be present for the meeting to be quorate) chosen by the Head of Democracy on the basis of availability from the members of the Committee so that it includes at least one of the Chair or Vice-chairs of the Committee, where possible. The
5. To make recommendations to Council in respect of the Council's licensing policy in respect of its powers under the Gambling Act 2005	

<p>6. In those cases where a relevant representation has been received and not withdrawn, to discharge the Council's responsibility under the Gambling Act 2005 for determining the following:</p> <ul style="list-style-type: none"> <li>(i) application for a premises licence;</li> <li>(ii) application for the variation of a premises licence;</li> <li>(iii) application for a provisional statement under section 204 of the Act;</li> <li>(iv) application for a club gaming permit or club machine permit under sections 271 and 273 of the Act</li> </ul> <p>7. To determine the following matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005:</p> <ul style="list-style-type: none"> <li>(i) an application for transfer of a premises following representations by the Gambling Commission;</li> <li>(ii) a review of a premises licence under section 201 of the Gambling Act 2005;</li> <li>(iii) whether to issue a counter notice to a temporary use notice under section 224 of the Gambling Act 2005;</li> <li>(iv) whether to cancel a gaming permit or club machine permit.</li> </ul> <p>8. To determine new applications for sex establishment licences.</p> <p>9. To carry out functions relating to health and safety at work (other than in the Council's capacity as an employer) set out in Regulation 2 and Schedule 1 of the Regulations.</p> <p>10. To determine discretionary licensing fees where objections to the proposed fees have been made, and these have not been withdrawn and are not considered frivolous or vexatious by the Head of Regulatory and Community Safety and provide for objectors to speak for up to five minutes at meetings of the Sub-committee.</p>	<p>Licensing Subcommittee will follow the Procedure Rules for licensing hearings when exercising these functions.</p> <p>.</p> <p>No delegation</p>
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<p>11. To review the decision where an appeal is lodged against a decision to refuse an authorisation for staging hypnotism.</p> <p>12. To consider a hackney carriage proprietor and driver licensee, and/or private hire driver or operator licensee's continued fitness to hold a license, including cases where an individual licensee reaches 12 points under the Council's Penalty Point Scheme, in a rolling 12-month period.</p>	<p>No delegation</p>
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**Members of the Licensing Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

**(d) Member Conduct Committee**

<b>Functions</b>	<b>Delegation</b>
<ol style="list-style-type: none"> <li>1. To assist the Council to promote and maintain high standards of conduct by councillors and co-opted members;</li> <li>2. To assist councillors and co-opted members to observe the Members' Code Conduct;</li> <li>3. To advise, train or arrange to train councillors and co-opted members on matters relating to the Members' Code of Conduct;</li> <li>4. To monitor the operation of the Members' Code of Conduct and advise the Council on the adoption or revision of the Code;</li> <li>5. To grant dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;</li> <li>6. To determine any complaints that members have breached the Code of Conduct;</li> <li>7. To consider requests for reviews of decisions that complaints that a member has breached the Members' Code of Conduct require no further action in accordance with the procedure for dealing with complaints;</li> <li>8. To exercise 6 and 7 above in relation to the parish/town councils wholly or mainly in the Council's area and the members of those parish/town councils;</li> <li>9. To determine any reports from the monitoring officer into complaints that members of the Borough Council have breached one of the Council's codes or protocols, other than the Members' Code of Conduct;</li> <li>10. To monitor the operation of and advise the Council on the adoption or revision of codes</li> </ol>	<p>Items 6, 7 and 8 have been delegated to the Member Conduct Panel.</p> <p>The Member Conduct Panel will comprise three borough councillor members selected by the Monitoring Officer on the basis of availability from the members of the Committee. A parish member may be co-opted as a non-voting member of the Panel if the complaint is about a member of a parish/town council.</p> <p>The Panel will follow the Procedure Rules for dealing with complaints about member conduct when exercising these functions.</p>

<p>and protocols relating to standards issues other than the Members' Code of Conduct;</p> <p>11. To advise, train or arrange to train councillors and co-opted members on matters relating to codes and protocols relating to standards issues other than the Members' Code of Conduct;</p> <p>12. To make recommendations to the Cabinet or Council on major amendments to the Council's Constitution which involve standards issues;</p>	
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**Members are recommended to attend any appropriate training prescribed by the Monitoring Officer before attending any Member Conduct Panel meetings.**

**(e) Personnel Committee**

<b>Functions</b>	<b>Delegation</b>
<ol style="list-style-type: none"><li>1. To determine the terms and conditions on which staff hold office and policies relating to those terms and conditions including procedures for dismissal</li><li>2. To determine appeals by a JNC Officer against dismissal.</li><li>3. To determine all other employment related appeals for JNC staff which are provided for in the Council's procedures.</li><li>4. To make recommendations to Council on the appointment or dismissal of the Head of Paid Service.</li><li>5. To make recommendations to Council on the appointments to Chief Officer, Statutory Officer posts and the Head of Paid Service.</li><li>6. To make councillor appointments to the Joint Negotiating and Consultative Committee.</li><li>7. To undertake the Chief Executive's Performance and Development Review.</li></ol>	<p>Officers are authorised to exercise the powers set out in section 8 of the Constitution</p> <p>Items 2,3,4,5 and 7 have been delegated to Personnel Panels.</p> <p>The Personnel Committee will appoint panels which will consist of five members (with a quorum of three) for functions 2,3,4,5, 6 and 7.</p>

**Members cannot participate in Personnel Committee and Panel meetings unless they have attended the appropriate training on relevant personnel matters prescribed by the Head of Democracy; or they have had previous substantial involvement in the matter under consideration.**

**Members of the Personnel Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

**Other councillors are allowed to substitute for members of the Personnel Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term.**

**(f) Plans Committee**

<b>Functions</b>	<b>Delegation of functions</b>
<ol style="list-style-type: none"> <li>1. To determine applications not delegated to the Head of Planning and Growth.</li> <li>2. To determine applications for certificates of lawfulness where the Head of Democracy or the Head of Planning and Growth consider the exercise of delegated powers to be inappropriate.</li> <li>3. To determine applications for modifications or revocation of planning agreements.</li> <li>4. To determine applications submitted by the Council which are not delegated to the Head of Planning and Growth.</li> <li>5. To respond to consultation on applications not delegated to the Head of Planning and Growth in respect of county matters, proposals by the County Council, neighbouring authorities, government departments and statutory undertakers.</li> <li>6. To issue and serve enforcement notices and stop notices except where delegated to the Head of Planning and Growth or the Head of Democracy.</li> <li>7. To authorise other forms of enforcement action under both planning and listed buildings legislation not delegated to the Head of Planning and Growth or the Head of Democracy.</li> <li>8. To carry out functions relating to the formal preservation of trees and protection of important hedgerows where the Head of Planning and Growth considers the exercise of delegated powers to be inappropriate.</li> <li>9. To authorise completion notices under Section 94 of the Town and Country Planning Act 1990.</li> </ol>	<p>Items 1 to 11 - The Head of Planning and Growth and the Head of Democracy are authorised to exercise the powers set out in section 8 of the Constitution.</p>

<p>10. To carry out all other functions relating to town and country planning set out in Regulation 2 and Schedule 1 of the Regulations not delegated to the Head of Planning and Growth or the Head of Democracy.</p> <p>11. To determine high hedges complaints under the High Hedges Regulations 2005 where the high hedge complaint relates to:</p> <ul style="list-style-type: none"> <li>(i) the Council's own land;</li> <li>(ii) land is occupied by a councillor or Council employee; or</li> <li>(iii) where the complainant is a councillor or Council employee.</li> </ul> <p>12. To recommend the Council acquire a listed building in need of repair</p> <p>13. To carry out those functions for which the Council is responsible relating to public rights of way set out in Regulation 2 and Schedule 1 of the Regulations.</p>	<p>No delegation</p> <p>The Head of Planning and Growth is authorised to exercise the powers set out in section 8 of the Constitution.</p>
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**Members cannot participate in Plans Committee meetings unless they have attended the appropriate training on relevant planning matters prescribed by the Head of Democracy.**

**Members of the Plans Committee must attend the mandatory training, or its equivalent, at the start of each Council term to maintain their eligibility.**

**Other councillors are allowed to substitute for members of the Plans Committee who are absent using procedures set out in the Committee Procedures. In order to maintain eligibility to participate in meetings a councillor must have attended mandatory training, or its equivalent, in the current Council term and also have attended either at least one of the quarterly planning training meetings or at least one Plans Committee meeting held in the previous 12 months. If eligibility is lost, a councillor must attend the mandatory planning training, or its equivalent, to regain it.**



## Chapter 6 . ROLES OF SCRUTINY BODIES

<b>6.1 Areas of work of scrutiny bodies</b>	<b>6-1</b>
<b>6.2 What powers do scrutiny bodies have?</b>	<b>6-3</b>
<b>6.3 Roles of scrutiny bodies</b>	<b>6-3</b>

### 6.1 Areas of work of scrutiny bodies

The Council has appointed two standing scrutiny bodies, which are politically balanced committees

<b>Body</b>	<b>Areas of work</b>
Scrutiny Commission (politically balanced)	<ul style="list-style-type: none"><li>(i) Setting, managing and controlling the scrutiny work programme and coordinating scrutiny generally</li><li>(ii) Establishing scrutiny panels and determining their scope, terms of reference and timing</li><li>(iii) Considering recommendations from scrutiny panels before they are referred by the Commission to Cabinet, Council or a committee</li><li>(iv) Reviewing proposed decisions on the Forward Plan and the agenda for forthcoming Cabinet meetings and making recommendations to Cabinet in respect of those proposed decisions</li><li>(v) Responding to Councillor Calls for Action</li><li>(vi) Monitoring the effectiveness of scrutiny through reviewing the implementation of recommendations</li><li>(vii) Considering petitions holding officers to account in accordance with the Council's Petition Scheme</li><li>(viii) Considering decisions of the Cabinet and officers which are called-in</li></ul>

<b>Body</b>	<b>Areas of work</b>
Finance and Performance Scrutiny Committee (politically balanced)	<ul style="list-style-type: none"> <li data-bbox="764 239 1341 457">(i) Acting as the Council's crime and disorder committee by scrutinising the discharge of crime and disorder functions by the Council and other agencies through the Community Safety Partnership</li> <li data-bbox="764 457 1317 531">(ii) Scrutiny of external public service providers and partners</li> <li data-bbox="764 531 1182 604">(iii) Scrutiny of the Council's commercialism strategy</li> <li data-bbox="764 604 1328 751">(iv) Scrutiny of outside bodies, especially those which the Council gives grants to and/or has service level agreements with</li> <li data-bbox="764 751 1317 898">(v) Scrutiny of services which are shared with other local authorities including joint scrutiny of those services</li> <li data-bbox="764 898 1341 972">(vi) Receiving regular performance and financial monitoring reports</li> <li data-bbox="764 972 1292 1119">(vii) Identifying areas of underperformance or where performance could be improved which requires further scrutiny</li> <li data-bbox="764 1119 1333 1266">(viii) Investigating how improvements in performance can be made through examining best practice and performance at other councils</li> <li data-bbox="764 1266 1352 1518">(ix) Reviewing the processes used to develop policy, including how consultation and stakeholder engagement are undertaken, the format of policy documents and how the successful implementation of policies is measured</li> </ul>

## **6.2 What powers do scrutiny committees have?**

Scrutiny bodies can:

- Send reports and recommendations to the Cabinet or full Council on anything the Council is responsible for or anything that affects the Borough or its people.
- Monitor the Forward Plan and call for reports on items that are coming up
- Require senior officers and Cabinet members to attend their meetings and answer questions (see 11.14)
- Hold inquiries
- Invite people to their meetings and gather evidence from them.

The Scrutiny Commission may establish standing and ad hoc panels to undertake scrutiny inquiries and make recommendations.

## **6.3 Roles of scrutiny bodies**

### **(a) Developing and reviewing policy**

Within their areas of work, scrutiny bodies can:

- Help full Council and the Cabinet to develop policy by studying issues in detail
- Carry out research and consultation on policy
- Consider and introduce schemes to involve the public in developing policy
- Work with national, regional and local organisations to promote the interest of local people.

### **(b) Holding the executive to account**

Within their areas of work, scrutiny bodies can:

- Review the performance and decisions of the Cabinet, members of the Cabinet and Council officers (but not decisions on individual planning or licensing applications)

- Review the Council's progress in achieving its policy aims and performance targets
- Review the performance of individual services.

**(c) Managing the budgets for scrutiny**

Scrutiny committees are responsible for any budgets they are given.

**(d) Holding others to account**

Scrutiny committees can hold other public service providers to account.

**(e) Annual report**

The Scrutiny Commission must report annually to Council on the workings of scrutiny bodies and the operation of the scrutiny function generally.

## Chapter 7 . ROLES OF OFFICERS

<b>7.1 Senior management structure</b>	<b>7-1</b>
<b>7.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer</b>	<b>7-1</b>
<b>7.3 Role of Head of Paid Service</b>	<b>7-1</b>
<b>7.4 Role of Monitoring Officer</b>	<b>7-2</b>
<b>7.5 Monitoring Officer's right to information</b>	<b>7-3</b>
<b>7.6 Role of Chief Finance Officer</b>	<b>7-3</b>
<b>7.7 Duty to give Monitoring and Chief Finance Officers the resources they need</b>	<b>7-4</b>
<b>7.8 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues</b>	<b>7-4</b>
<b>7.9 Restrictions on holding other posts</b>	<b>7-4</b>

### 7.1 Senior management structure

The Council has a Chief Executive and four directors. Their responsibilities and those of the heads of service who report to them are shown in the senior management structure that appears at the end of this section.

### 7.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The table shows who carries out these roles.

<b>Role</b>	<b>Post</b>
Head of Paid Service	Chief Executive
Chief Finance Officer	Director of Finance, Governance & Contracts
Monitoring Officer	Head of Democracy

### 7.3 Role of Head of Paid Service

- (a) The Head of Paid Service may amend the senior management structure of the Council to deliver the Council's objectives in the most effective and efficient manner, subject to seeking approval from Cabinet and/or Council when this is appropriate or required.
- (b) The Head of Paid Service will maintain on the Council's website an up to date senior management structure chart showing post titles and the broad functional responsibilities of each post

## **7.4 Role of Monitoring Officer**

### **(a) Making sure Council decisions are lawful and fair**

If a proposal or decision would result in unlawful action or maladministration, the Monitoring Officer will consult the Head of Paid Service and Chief Finance Officer and report to full Council (or the Cabinet for an executive responsibility).

The proposal or decision will not be acted on until the report has been considered.

If another body is also investigating a proposal or decision that could result in unlawful action or maladministration, the Monitoring Officer can delay reporting to full Council or the Cabinet until that body has investigated.

### **(b) Leading on ethical issues**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct including through support of the Member Conduct Committee.

The Monitoring Officer will meet regularly with the Head of Paid Service and the Chief Finance Officer to consider issues of governance and probity.

### **(c) Carrying out investigations**

The Monitoring Officer may investigate or arrange for another person to investigate:

- issues of governance and maladministration
- complaints of breaches of the code of conduct for members and the Council's other codes and protocols
- questions about the Council's power to act.

### **(d) Being proper officer for access to information**

The Monitoring Officer will be the proper officer for access to information. This will include making sure that the Council publishes full Council, Cabinet, committee, single Cabinet member and officer decisions as soon as possible, along with the reasons for the decisions and the officer reports in accordance with the Access to Information rules.

### **(e) Giving advice**

The Monitoring Officer will advise on the Council's powers to take decisions, maladministration, ethics and governance and the budget and policy framework.

## **(f) Monitoring Officer Protocol**

The Monitoring Officer Protocol provides further guidance on the role of the Monitoring Officer within the Council and in liaising outside the Council.

## **(g) Legal action**

The Monitoring Officer can take, or authorise another officer to take, any legal action necessary to carry out the Council's decisions or protect its interests.

## **(h) Authentication of documents**

When the Council takes legal action, documents will be signed in the name of the Monitoring Officer, unless:

- The law or this Constitution allows someone else to sign them and
- The Monitoring Officer has given that person permission to sign them.

The common seal of the Council will be kept by the Monitoring Officer. It will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed to give effect to a properly authorised decision. It will be attested by the Monitoring Officer or a senior officer nominated by him or her.

The Council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

## **7.5 Monitoring Officer's right to information**

### **(a) Information for investigations**

In any investigation the Monitoring Officer will have unqualified access to information from the Council and its officers.

### **(b) Reports to Councillors**

The Monitoring Officer has the right to see all reports to Councillors.

### **(c) Legal opinions**

The Monitoring Officer will have an adequate budget for getting legal opinions.

## **7.6 Role of Chief Finance Officer**

### **(a) Making sure decisions are lawful and financially sensible**

If a proposal or decision would result in unlawful spending or a loss to the Council, or if the Council is about to enter an unlawful item of account, the Chief Finance Officer will consult the Head of Paid Service and the Monitoring Officer and report to the Council's auditors and to full Council (or the Cabinet if it is an executive responsibility).

### **b) Managing the Council's finances**

The Chief Finance Officer will have responsibility for the administration of the Council's finances.

### **(c) Contributing to the management of the Council as a whole**

The Chief Finance Officer will contribute to the management of the Council as a whole, especially by giving financial advice. The Chief Finance Officer has the right to see all reports to Councillors.

### **(d) Giving advice**

The Chief Finance Officer will advise on maladministration, probity, financial impropriety and the budget and policy framework.

### **(e) Giving financial information**

The Chief Finance Officer will make information about the Council's finances available to the media and the public.

## **7.7 Duty to give Monitoring and Chief Finance Officers the resources they need**

The Council will give the Monitoring Officer and Chief Finance Officer the accommodation, officers and resources they believe they need to do their jobs. The Monitoring Officer and Chief Finance Officer will report to full Council when necessary on the accommodation, officers and resources they need.

## **7.8 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues**

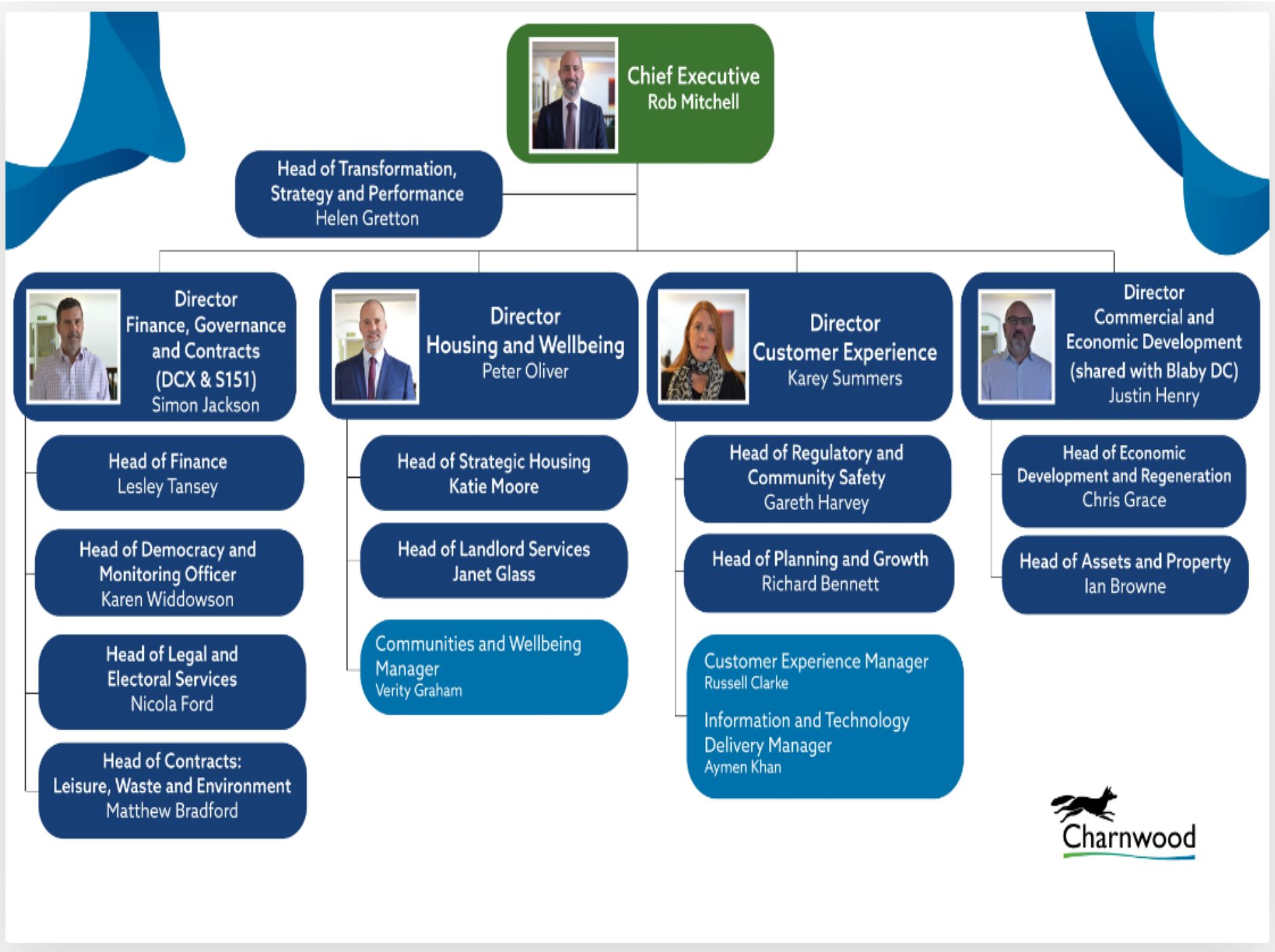
Directors and heads of service must alert the Monitoring Officer and Chief Finance Officer to issues of concern as soon as they come up. These will include legality, probity, vires and constitutional issues.

## **7.9 Restrictions on holding other posts**

The Monitoring Officer cannot be the same person as the Chief Finance Officer or Head of Paid Service.

The Head of Paid Service and the Chief Finance Officer can be the same.





# CHARNWOOD BOROUGH COUNCIL – DECISION MAKING STRUCTURE

