

## 4. EXECUTIVE FUNCTIONS

### What are executive functions?

Executive functions are all of the council's functions that are not full council functions or non-executive functions.

Executive functions include those local choice functions identified above as the responsibility of the executive.

As specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, executive functions do not include:

- imposing conditions, limitations or restrictions on approvals, licences, permissions or registrations on a non-executive function or determining any terms to which any such approval etc. is subject;
- determining whether or how to enforce any failure to comply with such approval etc. or any of the attached conditions ;
- amending, modifying or revoking any such approval etc. or determining whether a charge should be made for such approval etc. or the amount of such charge;
- making, amending, revoking or replacing the members' allowance scheme;
- subject to any regulations under section 20 Local Government Act 2000, making arrangements for the joint exercise of functions under s.101(5) of the Local Government Act 1972 and making appointments to committees / joint committees under s.102 of that Act;
- any functions reserved to full council under legislation which pre-dates the regulations;
- amending, modifying, varying or revoking any plan or strategy unless it is either required to give effect to the requirements of a Secretary of State or Minister submitted for approval, recommended by a person carrying out an independent examination of a development plan document under s.20 Planning and Compulsory Purchase Act 2004, or where full council when approving the plan/strategy authorised the Executive to do so.

## **The Mayor's scheme of delegation**

The Mayor shall publish a Scheme of Delegation.

The scheme includes the following:

- the councillors appointed to the executive and the nature and extent of any delegation to the executive;
- terms of reference of any executive committees appointed;
- the nature and extent of any delegation to area committees, any other authority, or any joint arrangements and the names of those executive members appointed to any joint committee in the forthcoming year;
- the nature and extent of any delegation to officers.

## Guidance on executive functions

### Key decisions

- The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 define a key decision is an executive decision which is likely:
  - To result in a local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
  - To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.
- Bristol City Council has decided that significant expenditure / savings are those that are of £500,000 or more
  - For capital, this includes a decision to implement a capital project with a total cost of £500,000 or more, even if the project has already been included in the council's capital programme.
  - For revenue, this includes one-off projects over £500,000 or decisions that amount to a material change to service provision.
  - It is not necessary to seek approval to tender for continuing revenue items, for example insurance arrangements, energy supply costs or the consolidated expenditure on supplies and services, even when this expenditure will total more than £500,000. Officers do need to comply with procurement regulations with this type of expenditure.
- Central government guidance clarifies what is meant by "significant impact on communities":
  - For example a council should regard as key a decision to close a school or carry out road works (such as introducing or altering traffic calming measures) in a neighbourhood, notwithstanding the thresholds of financial significance and that there may be an impact on only one ward.

○Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division the decision maker should ensure that those people are nevertheless informed of the forthcoming decision and sufficient time allowed for them to exercise their rights to see the relevant papers and make an input into the decision making process.

○In considering whether a decision is likely to be significant, the decision maker will need to consider the strategic nature of the decision and whether or not the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. The following should be considered:

- The effect on communities, businesses and communities;
- The expectation of the public and councillors as to whether the decision should be taken by the executive;
- The anticipated interest of the public and of councillors;
- The effect on other council services and functions.

In accordance with the above principles Bristol City Council also includes within its definition of key decision as

- Any matters relating to the cessation and/or significant change to service delivery or policy direction
- Any item felt to be of public interest, as determined by the Mayor and Cabinet
- Any matter deemed significant by the Head of Paid Service and/or Monitoring Officer and/or S151 Officer

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○Regard should be given to the underlying principles of accountable decision making to ensure that there is a presumption towards openness.

●Who decides if a decision is key?

○It is for the ~~strategic director~~ **Executive Director** to decide which decisions within their responsibility are key, subject to guidance from the Monitoring Officer who may require that a decision be treated as a key decision. ~~They should consider the definition and advice set out above and where appropriate seek legal advice.~~

## Principles of delegation

- The fact that a function is delegated to an officer under the scheme of delegations does not prevent the executive, or the Mayor, from exercising that function directly.
- The executive may arrange for functions allocated to it to be discharged by a committee or an officer, although the Mayor has the discretion to direct that such powers of onward delegation are not to apply either at all, or in such circumstances as he / she directs.
- An ~~an strategic director~~Executive Director may consider that a delegated authority should not be exercised by him/her and that it should be referred to the executive for determination.
- The executive may request that an ~~an strategic director~~Executive Director refrains from exercising a delegated authority in respect of a particular matter and determine the matter itself.
- The executive may determine to reserve decisions about a particular matter to itself.
- When exercising discretion remitted to them, officers are under a duty to satisfy themselves that the decision conforms to the council's budget and policy framework and other approved policies and that, in reaching a decision, they have observed approved practices and procedures and government guidance.
- Delegated officers may arrange for the discharge by their subordinate officers of functions allocated to them provided that the delegated officer remains responsible and accountable to the council for the exercise of his/her delegated powers and puts in place such measures as the delegated officer considers appropriate to ensure that those subordinate officers discharge functions in accordance with the provisions of this constitution and do not exceed the limits of any authorisation made to them by the delegated officer.

### **Professional advice**

- The executive and delegated officers should seek and obtain appropriate professional advice from those employed or otherwise engaged by the council for that purpose in connection with the matter under consideration. Any report made by officers to the Leader of the council or the executive should state whether or not such advice has been obtained.