

PART 3

**RESPONSIBILITY FOR
FUNCTIONS**

RESPONSIBILITY FOR FUNCTIONS

INTRODUCTION

The Local Government Act 2000 and regulations made under the Act distribute responsibility for the Council's functions between the full Council and the Executive (Cabinet). The law allows the full Council to decide whether some functions (known as "local choice functions") should be exercised by the full Council, the Cabinet or another Council body.

The volume of the Council's business makes it impracticable for the full Council to make every decision that lies within its remit. The full Council has, therefore, delegated certain of its functions to other "Council bodies" which are known as 'Panels' and 'Committees'. Under the law, the full Council and the Cabinet may also delegate powers to officers to make decisions that they could make. The distribution of these powers to officers is set out in the "Scheme" of Delegation to Officers. Individual members of the Cabinet (Portfolio Holders) may also make decisions that could be made by the Cabinet.

This part of the Constitution describes the powers which may be exercised by the full Council, the Cabinet, other Council bodies and Portfolio Holders and sets out the scheme of delegation to officers.

Table 1	Local Choice Functions Council
Table 2	Responsibility for Functions
Table 3	Responsibility for Executive Functions
Table 4	Functions Delegated to Officers
Table 5	Functions Delegated to Portfolio Holders

DEFINITIONS OF MEMBERSHIPS¹

The following table defines the membership of the various decision making bodies used in Table 1 and Table 2².

Decision Making Body	Membership
Council	All 39 members of the Council
Cabinet	The Leader and up to 9 further members appointed by the Leader
Investment Board ³	The Leader and up to two further Cabinet Members appointed by the Leader. Two additional substitute Cabinet Members to be appointed

¹ Amendment approved 25th February 2010

² Amendment approved 30th April 2020, deleted 7 May 2021

³ Amendment approved 9th January 2020

Decision Making Body	Membership
	<p>by the Leader.</p> <p>The Investment Board shall be advised by the Chief Executive, s.151 and Monitoring Officers together with the Director of Growth [and its meetings may be attended by the Chairman or Vice Chairman of O&S in an observatory capacity].</p>
<p>Overview and Scrutiny Panels</p>	<p>Up to 12⁴ members of the Council (none of which may be part of the Cabinet) for each panel defined in Table 1 of the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution</p> <p>Six additional substitute members to be appointed.⁵</p> <p>Each panel will have one Chairman and one Vice Chairman.</p>
<p>Planning Committee</p>	<p>Up to 12⁶ members of the Council. No more than three of which can be members of the Cabinet.</p> <p>The committee will have 1 Chairman and 1 Vice Chairman none of which can be members of the Cabinet.</p> <p>Each Political Group may appoint up to 4 substitute members of Planning Committee who shall be subject to the rules of substitute members, and shall be required to abide by the training requirements for the Planning Committee.⁷</p> <p>A new member appointed to Planning Committee must not take part in or vote on any decision made by Planning Committee until they have attended at least one internal and one external training session on planning related topics.</p> <p>Existing members of Planning Committee who take part in or vote on any decision made by Planning Committee should attend at least one internal and one external training session on planning related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of</p>

⁴ Amendment approved 19th May 2011

⁵ Amendment approved 18th July 2019

⁶ Amendment approved 18th July 2019

⁷ Amendment approved 19th May 2011

Decision Making Body	Membership
	<p>doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful.</p>
Licensing Committee	<p>Up to 12⁸ members of the Council. Power is given to the committee to appoint panels of 3 to determine individual cases.</p> <p>Six additional substitute members to be appointed.⁹</p> <p>A new member appointed to the Licensing Committee must not take part in or vote on any decision made by Licensing Committee until they have attended at least one internal and one external training session on Licensing related topics.</p> <p>Existing members of Licensing Committee who take part in or vote on any decision made by Licensing Committee (or a panel) should attend at least one internal and one external training session on Licensing related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful.</p>
Conduct Committee	<p>Up to 5 members of the Council.</p> <p>The Conduct Committee shall be advised by the Independent Person appointed in accordance with section 28 of the Localism Act 2011.</p> <p>The committee may appoint up to two non voting members who are Town or Parish Councillors.¹⁰</p> <p>Three additional substitute members to be appointed.¹¹</p>
Audit and Risk Management Committee ¹²	<p>Up to 11 members of the Council to be formed from:</p> <p>Up to 3 members of Cabinet not including the Portfolio</p>

⁸ Amendment approved 3rd November 2011

⁹ Amendment approved 18th July 2019

¹⁰ Amendment approved 26th July 2012

¹¹ Amendment approved 18th July 2019

Decision Making Body	Membership
	<p>Holder responsible for Finance</p> <p>Up to 3 members drawn from the Overview and Scrutiny Panel</p> <p>5 Backbench members</p> <p>Six additional substitute members to be appointed.</p> <p>The Chairman may not be a member of Cabinet.</p>
<p>Audit and Risk Management Determination Sub-Committee¹³</p>	<p>Up to 6 members of the Audit and Risk Management Committee including with the Chair or Vice-Chair (but not both) and no more than 2 Cabinet members.</p> <p>The Chairman and Vice-Chairman must be the same as those appointed to the corresponding positions on the Audit and Risk Management Committee.</p>
<p>Appointments Panel</p>	<p>Up to 7 members and not less than 3 nominated by the Leader to reflect political proportionality.</p> <p>Three additional substitute members to be appointed.¹⁴</p>

¹² Amendment approved 14th December 2020 (replaces Staff Committee and Corporate Governance Committee)

¹³ Amendment approved 14th December 2020

¹⁴ Amendment approved 18th July 2019

TABLE 1 - LOCAL CHOICE FUNCTIONS¹⁵

Function	Decision-Making Body (Memberships defined in table above)	Delegation of Functions
Any function under a local Act other than a function specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The conduct of Best Value Reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999	Overview and Scrutiny Panel reporting findings to Council for decision	As defined in Tables 4 and 5 of this Part of the Constitution
Any function relating to contaminated land: (i) approval of contaminated land strategy (ii) preparation of draft contaminated land strategy (iii) all other functions relating to contaminated land	Cabinet Cabinet Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution As defined in Tables 4 and 5 of this Part of the Constitution As defined in Tables 4 and 5 of this Part of the Constitution
The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The service of an abatement notice in respect of a statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution

¹⁵ Amendment to table approved 25th September 2008 and 25th February 2010

Function	Decision-Making Body (Memberships defined in table above)	Delegation of Functions
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Council's area	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution`
The inspection of the authority's area to detect any statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The investigation of any complaint as to the existence of a statutory nuisance	Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution
The obtaining of particulars of a person's interest in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: (i) in so far as the information is required in connection with a function of the Planning Committee	Planning Committee	As defined in Tables 4 and 5 of this Part of the Constitution.
(ii) in so far as the information is required in connection with a function of the Licensing Committee (iii) in so far as the information is required in connection with a function of the Cabinet	Licensing Committee Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution As defined in Tables 4 and 5 of this Part of the Constitution
The making of agreements for the execution of highways work	Planning Committee	As defined in Tables 4 and 5 of this Part of the Constitution

TABLE 2 – RESPONSIBILITY FOR COUNCIL FUNCTIONS ¹⁶

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Council	Corporate Asset Management Plan	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Budget	As defined in Tables 4 and 5 of this Part of the Constitution
	Medium Term Financial Strategy	
Council	Cultural Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Economic Development Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Council	The Housing Strategy ¹⁷	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Waste Management Plan	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Corporate Plan	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Development Plan Documents (DPDs) ¹⁸	As defined in Tables 4 and 5 of this Part of the Constitution

¹⁶ Amendment to Table 2 approved 21 December 2006, 11th May 2017 and 9th January 2020

¹⁷ Amendment approved 26th July 2012

¹⁸ Amendment Approved 14th December 2017

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Council	Making of Neighbourhood Plans and Neighbourhood Development Orders¹⁹	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Crime and Disorder Reduction Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Elections and Electoral Registration	As defined in Tables 4 and 5 of this Part of the Constitution
Council	Health and Safety Functions relating to Health and Safety under any “relevant statutory provisions” 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	As defined in Tables 4 and 5 of this Part of the Constitution.
Council ²⁰	Commercial Investment Strategy	As defined in Tables 4 and 5 of this Part of the Constitution
Planning Committee	Planning and Conservation Functions relating to town and country planning, conservation and listed buildings and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations)	As defined in Tables 4 and 5 of this Part of the Constitution

¹⁹ Amendment approved 14th December 2017

²⁰ Amendment approved 9th January 2020

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
	<p>Highways use and regulation</p> <p>The exercise of powers relating to the regulation and the use of highways as set out in Schedule 1 to the Functions Regulations</p>	As defined in Tables 4 and 5 of this Part of the Constitution
	<p>Trees and Hedgerows</p> <p>The exercise of powers relating to the preservation of trees and protection of important hedgerows as set out in Schedule 1 to the Functions Regulations</p>	As defined in Tables 4 and 5 of this Part of the Constitution
	<p>Brownfield Register (and other Registers)</p> <p>To undertake the functions of the Council under Part 2 of the Planning and Compulsory Purchase Act 2004 (local development), Section 14A (Register of Land), including preparation of a Brownfield Land Register as required by The Town and Country Planning (Brownfield Land Register) Regulations 2017.²¹</p>	As defined in Tables 4 and 5 of this Part of the Constitution
	<p>Rights of Way²²</p>	As defined in Tables 4 and 5 of this Part of the Constitution

²¹ Amendment approved 14th December 2017

²² Amendment approved 14th December 2017

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Licensing Committee	<p>Licensing Act 2003 To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 with the exception of the Statement of Licensing Policy which is reserved to Council</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>As defined in Tables 4 and 5 of this Part of the Constitution</p> <p>As defined in Tables 4 and 5 of this Part of the Constitution</p>
Conduct Committee ²³	<p>The promotion and maintenance of high standards and conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Code of Conduct for Members</p> <p>To determine any complaints of a breach of The Members' Code of Conduct via the Sub-Committee Hearing Panel ²⁴</p>	As defined in Tables 4 and 5 of this Part of the Constitution
	<p>Town/Parish Councils</p> <p>The promotion and maintenance of high standards of conduct within the Town and Parish Councils within Fenland and the determination of complaints made against these members in pursuance to the Code of Conduct.²⁵</p>	As defined in Tables 4 and 5 of this Part of the Constitution

²³ Amendment approved 26th July 2012

²⁴ Amendment approved 18 September 2019

²⁵ Amendment approved 26th July 2012

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Audit and Risk Management Committee ²⁶	<p>To receive reports from the Head of Paid Service and/or the Chief Finance Officer²⁷ on strategic employment policies, ie those employment policies immediately and directly affecting all employees and which incurs an additional cost to the service area in question.</p> <p>In collaboration with the Staff Side group to promote effective communications and consultation between the Council and its employees on general personal matters</p> <p>Exercise discretion allowed under the local government pension scheme, including the award of discretionary payments to employees</p>	As defined in Tables 4 and 5 of this Part of the Constitution

²⁶ Amendment approved 14th December 2020

²⁷ Amendment approved 26th July 2012

Decision-Making Body (Memberships defined in table above)	Functions	Delegations of Functions
Appointments Panel	<p>To appoint or dismiss the Head of Paid Service²⁸ Chief Officers and Directors</p> <p>Note: The appointment of the Chief Executive²⁹ must be confirmed by the full Council</p> <p>To take disciplinary action against the Chief Executive, and hear disciplinary appeals made by the³⁰ Chief Officers, the Monitoring Officer (and Deputy) and Chief Finance Officer (and Deputy) in accordance with the relevant provisions</p> <p>To consider and determine the terms and conditions of service of the Chief Executive and other employment related issues as they apply to the Chief Executive</p> <p>To consider any grievance submitted by the Chief Executive in accordance with the relevant provisions.</p>	As defined in Tables 4 and 5 of this Part of the Constitution
Overview and Scrutiny Panel	Overview and Scrutiny functions under the Local Government Act 2000 as amended ³¹	As defined in Tables 4 and 5 of this Part of the Constitution
Audit and Risk Management Committee ³²	Functions relating to audit, the regulatory financial framework and accounting policies	As defined in Tables 4 and 5 of the Part of the Constitution

²⁸ Amendment approved 26th July 2012

²⁹ Amendment approved 25th February 2010

³⁰ Amendment approved 25th February 2010 and 26th July 2012

³¹ Amendment approved 8th May 2008

³² Amendment approved 14th December 2020

TABLE 3 - RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

3.1. CABINET

Who is responsible?	Membership	Functions	Onward Limit of Delegations
Cabinet	Up to 10 members of the Council	All functions of the Council which are not the responsibility of any other part of the Council as defined in this Constitution	As defined in Tables 3 ³³ , 4 and 5 of this Part of the Constitution
Leader	The member so appointed by the Council	The creation of portfolios of related functions and appointment of members of the Cabinet to portfolios	
Portfolio Holders	See Appendix	Responsible for functions delegated to Portfolio Holders by the Cabinet	As defined in Tables 4 and 5 of this Part of the Constitution

3.1.1³⁴ Cabinet will be responsible for the following specific functions in relation to the Commercial Investment Strategy and the Council's companies and partnerships:

- (a) Conducting a formal review of the Commercial Investment every 2 years and recommending any necessary amendments for approval by Full Council;
- (b) Agreement of process and documentation for approval of Part 2 and 3 proposals;
- (c) The establishment of any new company and/or partnership;
- (d) The decommissioning/winding up of existing companies or partnerships;

³³ Amendment approved 9th January 2020

³⁴ Amendment approved 9th January 2020

- (e) The determination of Articles of Association;
- (f) The determination of the percentage share of ownership;
- (g) The determination of Reserved Matters for example appointment or dismissal of Directors³⁵ unless delegated to the Investment Board;
- (h) Scheme of delegations to the Investment Board and Officers;
- (i) To delegate to the Investment Board the requisite funding allocated for delivery of the Council's Commercial Investment Strategy and to oversee spending against that budget in accordance with the agreed processes.

3.2 INVESTMENT BOARD ³⁶

To create a new committee of Cabinet called the Investment Board which will have the delegated function set out at paragraph 3.2.1 to 3.2.3 below:

3.2.1 Purpose

The Investment Board is responsible for implementing the Commercial Investment Strategy including oversight of the Council's companies and partnerships.

The Investment Board will act as a decision-making body in relation to the functions delegated to it and will report to Cabinet in relation to the exercise of those functions.

Support and advice will be provided to the Investment Board by the Chief Executive, Section 151 Officer, Monitoring Officer and Director of Growth.

3.2.2 Membership and Operation of the Investment Board

The Investment Board will comprise a maximum of two Cabinet Members (one of whom should be the portfolio holder for finance if that position is not held by the Leader) in addition to the Leader who will determine their appointment annually.

The Leader will Chair the Investment Board and a Vice Chair will be selected from the elected members of the Investment Board. The Investment Board shall meet on a basis agreed by itself with a minimum of 3 meetings per year. The quorum shall be the Leader in the presence of a minimum of; • one other Cabinet Member; • one senior advisory officer (or their appointed deputy) [An invitation to

³⁵ Amendment approved 9th January 2020

³⁶ Amendment approved 9th January 2020

attend must have been provided to the Chair of O&S at least 5 clear days in advance of the meeting taking place. This notice period may be waived if the Chair of O&S or their nominated deputy so agrees.] An invitation to attend must also have been provided to the section 151 officer and the Monitoring Officer (or their nominated deputies) which will normally be at least 5 clear days in advance of the meeting taking place.

The provisions relating to substitution set out at paragraph 28 of the Standing Orders shall apply to meetings of the Investment Board save that the Leader and Cabinet Members may only be substituted by Cabinet Members [and the Chair of O&S may only be substituted by the Vice Chairman]. Such substitutions to be notified to Council as part of the annual nomination process. The Cabinet Procedure Rules shall apply to meetings of the Investment Board save in respect of paragraphs 1.6, 1.8, 2.2 (second paragraph), 2.3(g) and (h) and paragraph 2.5(d) which shall be disappplied.

3.2.3 Functions of the Investment Board

- (a) To determine investment appraisals submitted under Part 2 of the Council's Commercial Investment Strategy together with the most appropriate means of delivery;
- (b) To determine business cases submitted under Part 3 of the Council's Commercial Investments Strategy by the Council's companies and partnerships;
- (c) To determine the amount and terms of any investments, loans and assets required for the delivery of proposals approved in accordance with paragraphs (a) and (b) above from the agreed budget allocation;
- (d) To produce a report to Cabinet twice a year summarising its activities in accordance with paragraphs (a) to (c) above.
- (e) Approve the business plans of the Council's companies and partnerships;
- (f) to monitor performance and financial delivery in line with the approved business plans;
- (g) To ensure that those companies and partnerships comply with relevant Council policies, strategies and objectives;
- (h) To exercise decisions, where delegated by Cabinet, in relation to a company or partnerships' reserved matters;
- (i) To oversee the relationships between the Council and the Council's companies and partnerships in accordance with the Council's objectives.
- (j) To prepare and present an annual report to the Overview and Scrutiny Committee;
- (k) To determine for each individual company or partnership whether the Investment Board recommends to Cabinet the delegation of any functions to the officers of the Council.

All other matters not falling within the remit of the Investment Board functions set out at (a) to (k) above will be referred to Cabinet for decision.

APPENDIX

FENLAND DISTRICT COUNCIL CABINET AND PORTFOLIOS³⁷

Councillor Chris Boden - Leader	Finance Cambridge and Peterborough Combined Authority ³⁸
Councillor Jan French	Deputy Leader of the Council
Councillor Ian Benney	Economic Growth
Councillor Sam Clark	Health
Councillor Sam Hoy	Housing
Councillor Dee Laws	Planning
Councillor Andrew Lynn	Licensing and Community Safety
Councillor Peter Murphy	Open Space, Street Scene and Waste Management
Councillor Chris Seaton	Social Mobility and Heritage
Councillor Steve Tierney	Transformation, Communication and Environment

³⁷ Amendment made 23rd May 2019, amendment made 21 January 2021

³⁸ Amendment approved 17 May 2018