

# **FOLKESTONE AND HYTHE DISTRICT COUNCIL** **CONSTITUTION**

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS – GENERAL** **STATEMENT AND LOCAL CHOICE FUNCTIONS**

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**PART 3 - RESPONSIBILITY FOR FUNCTIONS - GENERAL STATEMENT AND LOCAL CHOICE FUNCTIONS**

**1 INTRODUCTION**

**1.1** Parts 1-12 of the Constitution set out which body or individual, within the Council, is responsible for exercising the Council’s functions.

**1.2** Under Section 13 of the Local Government Act 2000, functions are either executive functions or non-executive functions. Executive functions are exercised by Cabinet, Cabinet members and officers, under delegated powers (together called ‘the executive’). Non-executive functions are exercised by full Council, committees or sub-committees and officers, under delegated powers.

**1.3** The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (referred to as ‘the functions regulations’) list:

- a) Certain functions which must be non-executive functions;
- b) Other functions which must be partly executive and partly non-executive; for example, plans and strategies which are prepared by the Cabinet and recommended to full Council for adoption;
- c) Local choice functions which the Council can decide to treat as either executive or non-executive.

**1.4** All other functions are executive functions.

**2. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

The following table shows how local choice functions have been allocated:

<b>Function</b>	<b>Decision-making body</b>
a) Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the functions regulations, or other than a licensing, consent, permission or registration function (including development control functions)	The Cabinet
b) Any function under a local act in respect of a licensing, consent, permission or registration	Planning and Licensing Committee

function (including development control functions)	
c) The determination of an appeal against any decision made by or on behalf of the authority relating to housing allocations and homelessness determinations.	Audit and Governance Committee.
d) The determination of an appeal against any decision made by or on behalf of the authority in respect of matters relating to disciplinary and other employment matters.	Personnel Committee
e) The conducting 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.	The Cabinet
f) Any function relating to contaminated land other than a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of a person or the enforcement of any of the above.	Audit and Governance Committee
g) Any function relating to contaminated land involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above.	Planning and Licensing Committee
h) The discharge of any function relating to the control of pollution or the management of air quality other than a function involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the	Audit and Governance Committee

above.	
i) The discharge of any function relating to the control of pollution or the management of air quality involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above.	Planning and Licensing Committee
j) The service of an abatement notice in respect of a statutory nuisance.	Audit and Governance Committee
k) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Audit and Governance Committee
l) The inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above.	Planning and Licensing Committee
m) Matters relating to the inspection of the authority's area to detect any statutory nuisance and the investigation of any complaint as to the existence of a statutory nuisance other than matters involving the determination of an application for a licence, approval, consent, permission or registration or the direct regulation of any person or the enforcement of any of the above.	Audit and Governance Committee
n) The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Planning and Licensing Committee and, in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders only,

	the executive.
o) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The Cabinet (in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders only) and the Planning and Licensing Committee, and the Audit and Governance Committee, in connection with each of their respective functions.
p) The appointment or revocation of the appointment of any individual to any office (other than an office in which he is employed by the authority) or to any body (other than the authority or a joint committee of two or more authorities) or to any committee or sub-committee of such a body.	The Cabinet
q) The making of agreements, with other local authorities for the placing of staff at the disposal of those other authorities.	The Cabinet, except to the extent that the staff are being placed at the disposal of the other authority in relation to the discharge of functions which are not the responsibility of the Cabinet, where the function will be the responsibility of the Council.

### 3 NON - EXECUTIVE FUNCTIONS

Non - executive functions are exercised by:

- a) The whole Council (Part 4);
- b) Committees (Part 5);
- c) Officers under delegated powers (Scheme of Delegation, Part 8);
- d) Joint Committees (Part 12).