

# **BURNLEY BOROUGH COUNCIL**

## **PART 3**

### **SCHEME OF DELEGATION**

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## 1.COUNCIL FUNCTIONS

### a) Development Control Committee

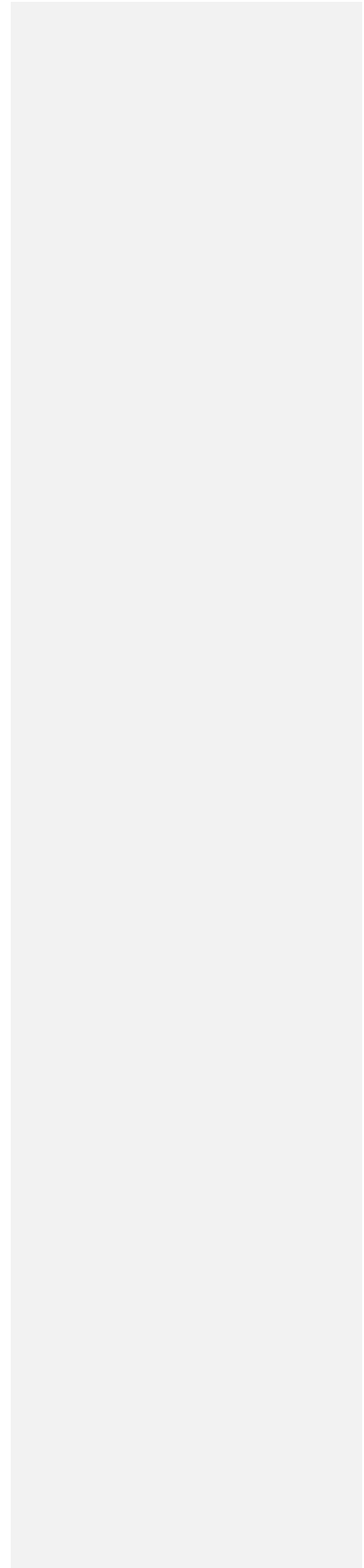
1.	<b>Planning and conservation</b> - functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (functions and responsibilities) (England) Regulations 2000 (the functions regulations) (and any miscellaneous functions in that Schedule related or ancillary to town and country planning ) and the Planning and Compulsory Purchase Act 2004 and relevant schedules and regulations
2.	<b>Commons registration</b> - 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
3.	To determine all matters as Local Planning Authority, except: <ul style="list-style-type: none"> <li>• decisions which would be substantially contrary to Burnley Local Plan and the Local Development Framework or any other clearly stated Council Policy;</li> <li>• decisions which would give rise to substantial claims for compensation</li> </ul>
4.	To consider Local Impact Reports prepared by officers in respect of Nationally Significant Infrastructure Projects, and determine whether or not the LIR represents the position of Burnley Council in respect of the proposal.

### **Head of Governance, Law & Regulation**

1.	To sign and serve statutory notices except as are delegated to the Head of Housing and Development Control.
2.	To serve, where appropriate, Stop Notices.
3.	To take enforcement action, including Court proceedings, where there has been a breach of planning control
4.	To confirm unopposed Orders for the diversion or stopping up of footpaths and bridleways.
5.	To serve a Building Preservation Notice, Hedgerow Retention Notice or a Tree Preservation Order in cases where emergency action is necessary.
6.	To confirm unopposed Tree Preservation Orders made by the Committee.

7.	To execute all documents necessary to give effect to Council decisions
<b>Head of Housing &amp; Development Control</b>	
1.	To have responsibility for the conduct of planning appeals.
2.	<p>To exercise the Council’s statutory duties and responsibilities under the Town and Country Planning Act 1990, the Planning and Compulsory Purchase Act 2004, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Environment Act 1995 and as might subsequently be amended in respect of:</p> <ul style="list-style-type: none"> <li>• determinations as to whether or not an application to the Local Planning Authority is required;</li> <li>• all approvals to lop or fell trees covered by Tree Preservation Orders or in Conservation Areas and Hedgerow Retention Notices;</li> <li>• all decisions on applications for consent to display advertisements;</li> </ul>
3.	<p>The approval of all applications except:</p> <ul style="list-style-type: none"> <li>• where in the opinion of the Head of Housing &amp; Development Control the decision is likely to be contentious;</li> <li>• where the application has been submitted by a Member of the Council, Officer of the Council or their partners;</li> <li>• Proposals for the Council’s own development which must not be treated under delegated powers and must be reported to Development Control Committee and identified as the Council’s own development in the written report to Committee</li> <li>• where the decision is not in accordance with a stated Council policy e.g. Local Plan</li> <li>• where material planning objections have been received; or</li> <li>• Where three Members have indicated that they wish the application to be considered by Development Control Committee - Members wishing for this to happen must notify the Head of Housing &amp; Development Control, or deputy, no later than the ‘consultation expiry date’ shown in the planning application record on the Council’s website and must give material planning reasons for their request. The Head of Housing &amp; Development Control will determine whether these reasons are material and arrange for the application be placed on the agenda for Development Control Committee.</li> </ul>

4.	The refusal of applications which are contrary to a clearly-stated Council policy, except; <ul style="list-style-type: none"> <li>• where the refusal could give rise to a claim for compensation;</li> <li>• where the application has been submitted by a Member of the Council, Officer of the Council or their partners;</li> <li>• Proposals for the Council's own development which must not be treated under delegated powers and must be reported to Development Control Committee and identified as the Council's own development in the written report to Committee</li> </ul>
5.	All decisions relating to the approval of reserved matters;
6.	To secure publicity by site notices, publicising development, and notifying interested parties for the following categories of application, over and above the statutory classes: <ul style="list-style-type: none"> <li>• applications which significantly affect the character of the neighbourhood;</li> <li>• applications which significantly affect the amenities enjoyed by the local population; and</li> <li>• applications which would have wide scale implications on the Borough or its population</li> </ul>
7.	To obtain information in connection with alleged breaches of planning control;
8.	To determine all applications for Certificates of Lawful Development;
9.	To respond to neighbouring Local Planning Authority consultations and County Matters applications, subject to the exceptions outlined in (4) above;
10.	To determine all applications for Prior Approval.
11.	In consultation with the Chair of the Development Control Committee, will be responsible for determining the scale and scope of consultation in relation to any Nationally Significant Infrastructure Project located wholly or partly within the borough boundary, and in any adjoining local authority area, or otherwise having an impact on the borough.
<b>Head of Streetscene</b>	
1.	Any matters relating to section 215 of the Town and Country Planning Act 1990 which are not covered by the Head of Housing and Development Control.
2.	To deal with all matters relating to excavations, erections, deposits, markings, plantings, in or on the highway.



## **b) Licensing Committee**

1.	<b>Taxi, gaming, entertainment, food and miscellaneous licensing</b> - Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003 and the Gambling Act 2005
2.	<b>Health and safety</b> - 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 an employer
3.	<p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p> <ul style="list-style-type: none"> <li>• The setting of fees for Hackney Carriages or Private Hire Vehicles</li> <li>• Functions relating to entertainments and alcohol licensing under the Licensing Act 2003</li> <li>• The setting of fees in relation to the Gambling Act 2005</li> <li>• Functions relating to the Gambling Act 2005.</li> <li>• Functions relating to scrap metal dealers under the Scrap Metal Dealers Act 2011- this will involve the hearing of representations and the determination of applications for a licence of a scrap metal dealer, under the Scrap Metal Dealers Act 2013, where the Head of Service for People, Law &amp; Regulation proposes to refuse or to cancel a licence or to vary a licence under section 4 of the Act and the applicant has given notice to the authority, within the prescribed time, that they require the opportunity to make representations about that proposal.</li> </ul>
4.	Functions relating to Schedule 3 of the Local Government (Miscellaneous Provisions ) Act 1982 made by Section 27 of the Policing and Crime Act 2009, regarding Sex Entertainment Venues.

## **Licensing Sub Committee**

5.	That the provisions with respect to taxis, set out in Part 3 of the Constitution and vested in the Licensing Committee, be delegated to the Licensing Sub Committee, consisting of 7 Members, subject to the usual quoracy provisions i.e. one third of the Members of the Sub Committee.
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## Head of Governance, Law & Regulation

1.	<p>To be the authorised Officer in respect of the following legislation and to appoint Officers to undertake, where appropriate, the licensing duties vested in the authority by the legislation. To institute proceedings, keep public registers, issue notices, make orders, and determine applications for licences (subject to the paragraphs below), approvals, registrations and consents in respect of the legislation.</p> <ul style="list-style-type: none"> <li>• The Food Safety Act 1990 (and associated regulations) - in so far as Burnley BC is the enforcing authority as detailed at Sections 5 and 6</li> <li>• The Local Government (Miscellaneous Provisions) Act 1982 - Part VIII, Part XI, Schedule 3 and Schedule 4</li> <li>• The Pet Animals Act 1951 – The whole of the Act</li> <li>• The Breeding of Dogs Acts 1973 and 1991 – The whole of the Act</li> <li>• The Zoo Licensing Act 1991 – The whole of the Act</li> <li>• The Dangerous Wild Animals Act 1976 – The whole of the Act</li> <li>• The Noise and Statutory Nuisance Act 1997 – The whole of the Act excluding those items specified as Local Choice functions under Schedule 2 of the Functions Regulations</li> <li>• Animal Boarding Establishments Act 1963</li> <li>• Town and Police Clauses Act 1847</li> <li>• The Local Government (Miscellaneous Provisions) Act 1976</li> <li>• Riding establishments Act 1964 and 1970</li> <li>• Vehicle Crime Act 2001</li> <li>• Food and Environmental Protection Act 1985</li> <li>• Criminal Justice and Police Act 2001;</li> <li>• Cooling Towers and Evaporative Condensers Regulations 2002</li> <li>• Licensing Act 2003</li> <li>• Public Health Control of Disease Act 1984</li> <li>• Gambling Act 2005</li> <li>• The Health and Safety at Work Act 1974</li> <li>• Health Act 2006</li> <li>• County of Lancashire Act 1984</li> <li>• Scrap Metal Dealers Act 2013</li> </ul>
2.	<p>To undertake the following functions in relation to entertainment and alcohol licensing in accordance with the Licensing Act 2003:</p> <ul style="list-style-type: none"> <li>• To determine applications for personal licenses where no objections have been made</li> <li>• To determine Application for premises licence where no representations have been made</li> <li>• To determine Application for provisional statement where no representations have been made</li> <li>• To determine applications to vary premises Licence / club premises certificate where no representations have been made</li> <li>• To determine applications to vary Designated premises supervisor where no police objections have been made</li> <li>• To deal with requests to be removed as Designated Premises Supervisor</li> <li>• To determine applications for the transfer of a premises licence where no police</li> </ul>

	<p>objections have been made</p> <ul style="list-style-type: none"> <li>• To determine applications for interim authority where no police objections have been made</li> <li>• To refuse an application for premises licence review which is irrelevant, repetitious, vexatious or frivolous</li> <li>• To determine applications for sexual encounter venues</li> </ul>
3.	<p>To undertake the following functions in relation to the Gambling Act 2005</p> <ul style="list-style-type: none"> <li>• To determine applications for premises licences where no representations have been made</li> <li>• To determine applications for the transfer of licences where no representations have been received from the Commission</li> <li>• To determine applications for provisional statements where no representations have been made</li> <li>• To determine applications for club gaming/club machine permits where no representations have been made</li> <li>• To determine applications for other permits</li> <li>• To determine the cancellation of licensed premises gaming machine permits</li> <li>• To determine requests for temporary use notices</li> <li>• To determine applications for variation of premises licence where no representations have been made</li> </ul>
4.	<p>To undertake the following functions in relation to the Scrap Metal Dealers Act 2013</p> <ul style="list-style-type: none"> <li>• To determine applications for site and collectors licences where no representations have been made</li> <li>• To determine applications for variation of site and collectors licences where no representations have been made</li> </ul>
5.	<p>To undertake the following functions in relation to Hackney Carriage vehicle and driver licensing and Private Hire vehicle and driver licensing and Private Hire Operator licensing as follows.</p> <p>(a) To be responsible for determining applications for Hackney Carriage vehicle and driver licences, Private Hire vehicle and driver licences and Private Hire Operators' licences, and for applications for the renewal of existing licences.</p> <p>(b) Where, in the opinion of the Head of Governance, Law &amp; Regulation, and in consultation with the Chair of the Licensing Committee, an application is controversial the matter be referred to the Licensing Committee for their determination</p>

	<p>(c) In all cases the Council's Guidelines for determining applications be adhered to.</p> <p>(d) In relation to the suspension and revocation of licences the Licensing Committee be responsible for suspending or revoking Hackney Carriage and Private Hire Drivers' licences and Private Hire Operators' licences. However the Council delegates to the Head of Governance, Law &amp; Regulation (or in their absence the Environmental Health and Licensing Manager <b>and in their absence the Council's Senior Solicitor</b>) in consultation with the Chair (or in their absence Vice Chair) of the Licensing Committee, the power to suspend or revoke a Hackney Carriage/Private Hire Driver's licence with immediate effect in the interests of public safety. Such action will be reserved only for the most serious situations. All other matters falling under section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 where public safety is not a factor will continue to be referred to the Committee for decision.</p> <p>(e) To be responsible for the suspension of Hackney Carriage vehicle licences and Private Hire vehicle licences.</p>
6.	<p>In the event that a driver fails to successfully complete the Burnley Council/Burnley College Taxi Training within the time limits set out as follows:</p> <p>To require all new applicants, upon applying for a Hackney Carriage or Private Hire Driver's licence, to have registered for the Taxi Training Course within 6 months of the application date: and</p> <p>To require all existing licensed hackney carriage and private hire drivers to undertake and successfully complete the Taxi Training Course by 31<sup>st</sup> October 2011;</p> <p>to approve the use of the Head of Governance, Law &amp; Regulation's delegated powers to suspend or refuse to renew, as appropriate, the Hackney Carriage and/or Private Hire Driver's licence. In such cases the driver will be offered the opportunity to put any circumstances to show why the licence should not be revoked or renewed to the Licensing Committee for final disposal.</p>
7.	<p>To execute all documents necessary to give effect to Council decisions</p>

**Comment [VA1]:** The Council's Senior Solicitor has been afforded this power in the absence of The Head of Governance, Law and Regulation and the Environmental Health and Licensing Manager

### **Head of Housing and Development Control**

1. The Head of Housing and Development Control to take any or all steps necessary to discharge the Council's powers, functions or obligations under the Caravan Sites and Control of Development Act 1960 Part 3 (3)

<b><u>c ) Standards and Audit Committee</u></b>	
1.	<b>The promotion and maintenance of high standards of conduct within the Council -</b> To advise the Council on the adoption or revision of its code of conduct. To monitor and advise the Council about the operation of its code of conduct in the light of best practice, changes in the law,
2.	<b>Assistance to members and co-opted members of the authority -</b> To ensure that all members of the Council have access to training in all aspects of the member code of conduct, that this training is actively promoted, and that members are aware of the standards expected of local councillors under the code
3.	<b>Other functions -</b> Functions relating to standards of conduct of members under any provision of, or regulations made under the Local Government Act 2000 or Localism Act 2011.
4.	<b>To consider audit activity, the regulatory framework, and accounts.</b>
<b>Monitoring Officer</b>	
1.	To grant dispensations under the Localism Act 2011 in consultation with the Chair of the Standards Committee.
<b><u>d) Appeals Committee</u></b>	
1.	To consider appeals against dismissal, other disciplinary action, grading and grievances by employees of the Council
2.	To determine all appeals falling within the remit of the Appeals Committee except where the Committee's decision would contravene an established Council policy.

### e) Chief Executive

1.	To deal with urgent items of business which cannot reasonably await the next meeting of the Council, and Regulatory Committees after consultation with the relevant Chair i.e. Mayor for Council business or Chair of relevant Regulatory Committee.
2.	To deal with urgent items of business which cannot reasonably await the next meeting of the Council, and Regulatory Committees in the absence of the Chair i.e. Mayor for Council business or Chair of relevant Regulatory Committee
3.	To make minor amendments to personnel policies which affect staff terms and conditions, and to make other amendments to those policies in consultation with Group Leaders and the Executive Member for Resources
4.	<u>To approve new personnel policies which affect staff terms and conditions and which are not significant, in consultation with Group Leaders and the Executive Member for Resources and Performance Management</u>

**Comment [VA2]:** Without this power non-significant personnel policies necessitate a full report to Council or the Executive (as appropriate).

### f) Director of Resources

1.	To determine prior to the start of each financial year in consultation with the Executive Member for Resources & Performance Management: <ul style="list-style-type: none"> <li>(a) The Council Tax base.</li> <li>(b). The estimated business rates to be collected as set out in the NNDR1 return.</li> </ul>
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**g) Monitoring Officer Head of Governance , Law & Regulation**

1.	<del>–Appointed as the Council’s Monitoring Officer with Authority to make minor amendments to the Council’s constitution.</del>
<u>2.</u>	<u>To make minor amendments to the list of appointments to outside bodies, in consultation with Group Leaders.</u>
<u>3.</u>	<u>To make any in year appointments to Committees and Working Groups according to the political balance calculation, in consultation with relevant Group Leaders, to the extent not precluded by law</u>

**Comment [VA3]:** This power is already designated to the Head of Governance, Law and Regulation in relation to Executive functions. For clarity, a reciprocal power is appropriate to cover Council functions

**Comment [VA4]:** This power is already designated to the Head of Governance, Law and Regulation in relation to Executive functions. For clarity, a reciprocal power is appropriate to cover Council functions