

West Surrey Shadow Authority		
Report title: Responsibility for Functions: Local Choice Functions		
Report to: Constitution Sub-Committee		
Date: 17 September 2026		
Executive Portfolio Holder: Cllr. Victoria Kiehl		
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Report of Susan Sale, Monitoring Officer (interim), susan.sale@westsurrey.gov.uk		
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Wards affected: ALL		
Ward councillors informed: No		
Exempt from publication: No		
Key Decision: No	If a Key Decision, date registered on Forward Plan: n/a	
Report cleared for publication by:		
People Workstream	N/A	N/A
Equalities Impact Assessment complete	N/A	N/A
Senior Responsible Officer (or their delegate)	N/A	N/A
S151 Officer	Susan Sale on behalf of Vicky Radford	10 September 2026
Monitoring Officer	Susan Sale	10 September 2026
Executive Portfolio Holder consultation	Victoria Kiehl	10 September 2026
Committee Chair consultation	Cllr Joanne Shaw	10 September 2026
Head of Paid Service	Susan Sale on behalf of Andy Brown	10 September 2026

1. Executive Summary

- 1.1 This report sets out the statutory framework for Local Choice functions to be included in the West Surrey Council's Constitution, effective from Vesting Day, and suggests an allocation of those functions.

2. Recommendations:

- 2.1. **It is recommended that the Constitution Sub-Committee:**

Recommend the proposed approach for Local Choice functions, from Vesting Day, to the West Surrey Shadow Authority Standards Committee.

3. Reason(s) for recommendation:

- 3.1 Allocation of Local Choice functions will bring clarity and transparency as to where the responsibility for those functions' rests, to ensure that it is clearly documented in the West Surrey Council Constitution.
- 3.2 The proposed allocations provide an appropriate basis for the development of the Council's detailed committee and officer delegation arrangements and will help ensure that, from vesting day, decisions are taken by the appropriate decision maker with the necessary authority.

4. Next steps

- 4.1. Comments and feedback received from the Constitution Sub-Committee on 17 September 2026 will go to the Standards Committee on 22nd October 2026.
- 4.2. The Scheme of Delegation and Terms of Reference for Committees are both included in the workplan for future meetings.

5. Exemption from publication

- 5.1. None of this report is exempt from publication.

6. Background and Proposal

- 6.1 The Local Government Act 2000 provides the statutory framework for the allocation of functions between a local authority and its executive. The detailed arrangements are set out in the Local Authorities (Functions & Responsibilities) (England) Regulations 2000 (as amended) "the Regulations".

- 6.2 The Regulations distinguish between functions which must not be the responsibility of the executive, known as "Council functions", those which are the responsibility of the Executive, known as "Executive functions" and a category of functions which may, but need not be, the responsibility of the Executive, known as "Local Choice functions".
- 6.3 For Local Choice functions, the Council determines whether responsibility should sit with the Executive or the Council, and this determination is recorded in the Constitution.
- 6.4 The Regulations have been amended on a number of occasions and some provisions which are in other Council's constitutions, and Schedule 2 of the Regulations, relate to legislation which has been repealed or replaced. Functions which are no longer applicable have not been included.
- 6.5 The suggested allocation seeks to ensure that functions which are operational or associated with the delivery of executive functions can be exercised through the Executive and appropriate officer delegations, whilst functions which are more appropriately exercised independently of the Executive e.g. school appeals are retained as Council function.
- 6.6 The next stage of work for the Council/Executive functions would be to decide how they are delivered i.e. what committees and officer delegations need to be put in place to ensure that the functions can be delivered efficiently.

7. Consultation

- 7.1. Consultation has been undertaken with the relevant Portfolio Holder and their comments may be fed back verbally to the Constitution Sub Committee at its meeting.

8. Key Risks

- 8.1. If the Council does not decide the allocation of its Local Choice functions, there is a risk of uncertainty as to whether those functions are the responsibility of the Council or the Executive. This could lead to decisions being taken by a body or person without the necessary authority. This could in turn result in decisions being open to legal challenge.
- 8.2. Clearly allocating the Local Choice functions provides transparency over decisions and ensures that the Council's Scheme of Officer Delegation operate on the correct statutory basis.

9. Options

- 9.1. Recommend the Local Choice functions (with or without further amendments) to the Standards Committee. This is the **preferred option** to ensure a clear

and robust constitution and allow progress through the next stages of the governance route.

- 9.2. Do not recommend the Local Choice functions for onward progression to the Standards Committee. This is **not recommended**.

10. Issues for Consideration

10.1. Financial Implications

- 10.1.1. There are no direct financial implications arising from the proposed action set out in this report.

10.2. Legal Implications

- 10.2.1 The legal implications are set out through this report.

10.3. Monitoring Officer Commentary

- 10.3.1. Local Choice functions form an important part of a council constitution and form part of the Council's arrangements for discharging its functions. They will help ensure compliance with legislation, clarity around decision-making powers, and will support a robust governance framework.

10.4. People/Human Resources Implications

- 10.4.1 There are no direct People or Human Resources implications arising from this report.

10.5. Equality and Diversity Implications

- 10.5.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

- 10.5.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 10.5.3 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report. Equality and Diversity implications will be considered separately in respect of the exercise of the functions which are allocated by this report.

10.6. Climate Change and Sustainability Implications

- 10.6.1 There are no climate change and sustainability impacts arising directly from this report.

10.7. Stakeholder Implications

- 10.7.1 None anticipated.

11. Overview & Scrutiny Comments

- 11.1 Not applicable

12. List of Appendices

Appendix 1: Proposed Local Choice Functions

13. List of Background papers

- 13.1 None