

Scheme of Delegations of Executive Functions by the Leader of the Council (May 2011)

1. Scope of the Scheme of Delegations of Executive Functions by the Leader of the Council

This Scheme of Delegations is made pursuant to paragraph 9.2 of Part 2 of the Council's Constitution which requires that a written record of delegations of executive functions be presented by the Leader of the Council at the first meeting of the Council following whole Council elections.

Thereafter this Scheme of Delegations of Executive Functions may be amended at any time by the Leader of the Council on written notice to the Chief Executive and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any body, Committee or the Cabinet as a whole. The changes will be reported to the next ordinary meeting of the Council.

This Scheme of Delegations has regard to the Council's Constitution and should be read in the context of the procedure rules contained in Part 4 of the Constitution. Should there be any conflict between this Scheme of Delegations and the Council's Constitution then the Constitution will prevail.

2. Role

- 2.1 The Cabinet (the Executive) will carry out all of the District Council's functions which are not the responsibility of any other part of the District Council, whether by law or under the Constitution. Please see table below for those functions delegated to Officers of the Council:

Function	Delegation of functions
Any function relating to contaminated land.	Community and Planning Services Director
The discharge of any function relating to the control of pollution or the management of air quality.	Community and Planning Services Director
The service of an abatement notice in respect of a statutory nuisance.	Community and Planning Services Director
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.	Community and Planning Services Director
The inspection of the Authority's area to detect any statutory nuisance.	Community and Planning Services Director
The investigation of any complaint as to the existence of a statutory nuisance.	Community and Planning Services Director
The obtaining of information under section 330	Community and Planning

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Function	Delegation of functions
of the Town and Country Planning Act 1990 as to interests in land.	Services Director
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	All Directors

3. Form and Composition

- 3.1 The Cabinet will consist of the Leader of the Council together with a further 6 Members appointed by the Leader of the Council (the Leader). The membership of the Cabinet and individual portfolios will be reported to the Annual Meeting of the Council.

4. Leader

- 4.1 The Leader will be a Member elected to the position of Leader by the Council at the first meeting of the Council following whole Council elections. The Leader will chair the Cabinet (if present) and will hold office until:

he/she resigns from the office; or

he/she is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

he/she is no longer a Member; or

the expiry date of his/her fixed term of office as Leader, which is the date of the post-election annual meeting which follows his/her election as Leader (e.g. for a Leader elected at the Annual Council in May 2011, the period of election will continue to the Annual Meeting in May 2015); or

he/she is removed from office by resolution of the Council.

In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting.

5. Other Executive Members

- 5.1 The Leader will appoint one member of the Executive as Deputy Leader, who will hold office until the end of the Leader's term of office, unless:

(a) he/she resigns from the office; or

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(b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

(c) he/she is no longer a Councillor; or

(d) he/she is removed from office by the Leader, who must give written notice of any removal to the Chief Executive. The removal will take effect two clear working days after receipt of the notice by the Chief Executive.

Where a vacancy occurs, the Leader will appoint another Deputy Leader.

If for any reason the Leader is unable to act or the office of Leader becomes vacant (and pending the election of a new Leader) the Deputy Leader shall discharge all roles and functions of the Leader.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Executive shall act in the Leader's place or arrange for another Member of the Executive to act in his/her place.

Other Cabinet members shall be appointed by the Leader who shall notify the Council of their appointment and they shall hold office until:

(a) they resign from office; or

(b) they are suspended from being Members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(c) they are no longer Members; or

(d) they are removed from office on the expiry date of their appointed term of office, save that the Leader may remove the Cabinet Member from office at an earlier date if he/she so decides. The Leader must give written notice of any early removal of a Cabinet Member to the Chief Executive and the removal will take effect two clear working days after receipt of the notice by the Chief Executive.

6. Delegation to Executive and Portfolio Holders

Introduction

6.1 The Cabinet and Portfolio Holders or Officers must take all decisions within the context of the Budget and Policy Framework.

Who may Make Executive Decisions?

6.2 All key decisions will be taken by the Executive as a whole.

- 6.3 Individual members of the Cabinet may take decisions which are not key decisions.

Principles of Delegation

- 6.4 The Executive should focus on:

- (a) co-ordination of decisions with a corporate-wide implication;
- (b) major or key decisions;
- (c) decisions which are recommendations on change in policy – and hence need Council approval;
- (d) monitoring progress on key tasks; and
- (e) developing new policy.

- 6.5 Portfolio Holders have full delegated authority from the Executive to take all decisions within the remit of their portfolio (outlined in the Annex to Appendix H of the Constitution (attached to this scheme of delegations)) except:

- (a) key decisions which:
 - (i) result in the District Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates i.e. decisions which exceed £50,000 in value (but procurement decisions within the budget e.g. refuse vehicles can be undertaken within delegated powers); or
 - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the District Council.
- (b) decisions outside the agreed policy framework;
- (c) decisions which cut across two or more portfolios; and
- (d) proposals for new or amended policies or strategies.

Note: The fact that a decision could be made by a Portfolio Holder would not preclude that individual bringing the matter to the Cabinet for decision.

Portfolios

- 6.6 Portfolio Holders should be aware that the allocation of functions indicates an area of responsibility but does not automatically grant decision-making powers in that area. It is within the remit of each Portfolio Holder to:

- (a) provide direction and support to Directors and Heads of Service in the

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management of the resources supporting their respective portfolios – including approval for filling vacancies and other minor personnel changes within agreed budgets;

- (b) oversee partnership working and external relationships within their portfolio areas; and

keeping their colleagues informed of significant or important issues as they emerge and develop.

Further Delegation of Executive Functions

- 6.7 Where the Cabinet, a Committee of the Cabinet (if one is established) or an individual member of the Cabinet is responsible for an executive function, they may delegate further to joint arrangements or an Officer.
- 6.8 Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an Officer.
- 6.9 Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- 6.10 Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- 6.11 The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Chief Executive and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Executive as a whole. The Chief Executive will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- 6.12 Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.
- 6.13 Where a Cabinet member would normally exercise executive functions delegated to him/her in respect of any matter but is unable to do so because of absence or indisposition, a decision on the matter may be taken by the Leader, by the Cabinet or by a Committee of the Cabinet.
- 6.14 Where a Cabinet member would normally exercise executive functions delegated to him/her in respect of any matter but has a prejudicial interest in that matter as defined in the Members' Code of Conduct he/she shall not exercise those delegated powers in respect of that matter. A decision on the matter shall be taken by the Cabinet or a Committee of the Cabinet and the

normal rules for declaration of interests at meetings shall apply.

Conflicts of Interest

- 6.15 Where the Leader has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct.
- 6.16 If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct.
- 6.17 If the exercise of an executive function has been delegated to a Committee of the Cabinet, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Member' Code of Conduct.