

Part Three, Section ~~D~~

~~Terms of Reference C~~

Responsibility for

functions:

The Executive: the Leader, the

Cabinet & Cabinet Bodies

SECTION 1 – THE EXECUTIVE'S ROLE AND FUNCTIONS

1. ~~The Cabinet~~

1.1 ~~The Cabinet shall have the functions as follows:~~

- ~~(a) To exercise the powers and duties of the Council, except
 - ~~(i) where the exercise of such powers and duties is reserved to the Council;~~
 - ~~(ii) to the extent that statutory provisions preclude the Cabinet from discharging any responsibility;~~
 - ~~(iii) where different constitutional arrangements for particular functions and responsibilities have been made; or~~
 - ~~(iv) where powers and duties are delegated to a committee or to an officer.~~~~

1. Introduction

1.1 All functions of the Council which are not the responsibility of the Full Council or one of its Committees or an officer, in law or where the law gives a choice, under this Constitution (see Part 3 Section D), are the responsibility of the Executive.

1.2 The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is the collective term for the Leader, individual Cabinet Members, the Cabinet or a Committee of the Cabinet. The Leader selects the Executive members (Cabinet Members) and these make up the Cabinet. The Executive might also establish Committees and Sub-Committees.

1.3 The Cabinet will ordinarily carry out all of the local authority's executive functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally or allocate them to an individual

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Cabinet Member or a Committee of the Cabinet. The Leader may do this at any time. The Leader may also delegate those functions to an Area Committee, a joint committee, another local authority, or officers.

- 1.4 Where the Cabinet is exercising these functions, it may delegate those functions to a Committee of the Cabinet, an Area Committee or officers, but not to an individual member of the Cabinet.
- 1.5 Where an individual Cabinet Member is exercising these functions, it may delegate those functions to an Area Committee or officers.
- 1.6 Where Executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them; or the Leader or Cabinet from reviewing decisions made in the discharge of those functions in accordance with the provisions of Part 3 of this Constitution. All Executive functions not expressly reserved to the Leader, the Cabinet, a Committee of the Cabinet or an individual Cabinet Member are delegated to officers, subject to the restrictions on officer powers set out in Part 3 Section E of the Constitution.
- 1.7 The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is not in line with the budget or policy framework, this must be referred to the Full Council as a whole to decide.
- 1.8 Decision making meetings of the Executive will generally be open for the public to attend except where confidential or exempt matters are being discussed. Decisions of the Executive will be taken in accordance with the Access to Information Procedure Rules at Part 4 of the Constitution.

2. Matters reserved for the Executive

2.1 The following functions shall be exercised only by the Executive and will be taken by the Cabinet, or a Committee or Sub-Committee appointed by it, unless the Leader chooses to exercise these functions personally or allocate them to an individual Cabinet Member or a Committee of the Cabinet:

General:

- (a) All key decisions. These will be published in the Forward Plan in so far as they can be anticipated;
- (b) Changes to fees, charges or concession policies in respect of executive functions;

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- (c) Decisions on permanent savings in the budget to achieve the Cabinet's policies;
- (d) To be responsible for those local choice functions allocated to the Cabinet;
- (e) To oversee the delivery of Council services;
- (f) To agree the reduction or cessation of any of Council service;
- (g) With the agreement of the Leader, to enter into new, or confirm existing, joint arrangements with the Cabinets of other local authorities.

Policy:

- (a) To formulate the Council's overall policy objectives and draft the budget and policy framework for approval by the Council;
- (b) To determine the Council's strategy and programme for implementing the budget and policy framework set by the Council;
- (c) To consider and promote initiatives to improve the quality, efficiency and effectiveness of Council services;
- (d) To determine the Council's strategies and programmes in relation to:
 - (i) the social, economic and environmental needs of the Borough;
 - (ii) human rights and equalities in community leadership, service delivery and as an employer;
 - (iii) service transformation and best value
- (e) To oversee, including strategy formulation, co-ordination and implementation of the councils functions under the relevant legislation in relation to:
 - (i) Regeneration and social inclusion;
 - (ii) Community engagement, including communication, consultation, capacity building and active citizenship.

Local and Community Leadership:

- (a) To provide community leadership in the Borough;
- (b) To lead on community planning with input from others as appropriate;

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- (c) To develop, and consult on as appropriate, the Council's policy framework and other strategic documents;
- (d) To take in-year decisions on resources and priorities and to deliver and implement the budget and policy framework as agreed by the Council;
- (e) To be the focus for forming partnerships with public, private, voluntary and community organisations and to be responsible for effective joint work with partner agencies.

Financial management and resources

- (a) To be responsible for the strategic management of Council resources, including land, property and staff, and to take decisions on such matters in the context of the Council's budget and policy framework and the Financial Regulations at Part 4 of this Constitution , including but not limited to:
 - (i) Budget management and control;
 - (ii) Revenue virements involving a change of Council policy of £100,000 or above and all other revenue virements of £250,000 or above;
 - (iii) Capital virements of £250,000 or above;
 - (iv) The achievement of value for money
- (b) To have responsibility for the acquisition or disposal of Council interest in land and buildings with a capital value equalling or exceeding £500,000.

Children's Services

- (a) Local Management of Schools – significant variations to the Scheme and any cases of a withdrawal of delegated powers, with the exception of power to suspend the right to a delegated budget where a school is eligible for intervention which is delegated to the Director following consultation with the relevant Cabinet Member;
- (b) The adoption of a syllabus of religious education on the recommendation of the Standing Advisory Council on Religious Education (SACRE);
- (c) The determination of discretionary awards;
- (d) The establishment or discontinuance of schools;
- (e) Permanent closure, relocation or change of use of residential establishments and day establishments providing services for children.

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Adult Social Services

- (a) Decisions on the permanent closure, relocation or change of use of residential establishments and day establishments.

Housing Services

- (a) Declaration of a clearance area in respect of slum clearance, of housing action areas and of general improvement areas pursuant to the provisions of the Housing Act 1985

Regeneration and Property Services

- (a) The annual bid to Transport for London for financial allocations to fund the Local Implementation Plan;
- (b) Local Implementation Plan - the addition of a scheme to, or the deletion of a scheme from, the active preparation programme;
- (c) 'Major Greater London Road Network Schemes' - Council response to public draft line, side road and compulsory purchase orders;
- (d) Major Capital Transportation Proposals:
(i) Choosing a preferred route or option following public consultation;
(ii) Authorising the promotion of Compulsory Purchase and Side Road Orders;
- (e) The making of an order for the compulsory acquisition of land;
- (f) The acquisition of land in advance of requirements;
- (g) Approval of the Local Development Scheme before submission to the Secretary of State;
- (h) Approval of all Local Development Documents (LDDs)

Highways Services

- (a) Approval of traffic calming works where more than 10 objections have been received;
- (b) Approval of (i) all orders to designate all or part of a public footpath as a cycle track prior to statutory consultation and (ii) any order which has been subject to objection, prior to its submission to the Secretary of State for confirmation;

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- (c) Approval of any permanent traffic regulation order subject to valid objection.

Contracts and Procurement

- (a) Power to suspend any contractor from the Lists in cases of serious breach of contract or unsatisfactory service delivery for contracts valued at £500,000 (five hundred and fifty thousand pounds) or more.

3. The Leader and Individual Cabinet Members

- 3.1 Individual Cabinet Members have powers allocated by the Leader to exercise those functions of the Cabinet which fall within that Cabinet Member's specific portfolio responsibilities.
- 3.2 On the production of each monthly update to the Forward Plan the Leader shall indicate which decisions -
- (a) may be taken by the Cabinet Meeting, or
 - (b) may be taken by a Cabinet Committee, or
 - (c) may be taken by the Leader personally, or
 - (d) may be taken by an individual Cabinet Member or Members, or
 - (e) may be taken by an area committee.

If there is any doubt as to which portfolio would cover any proposed decision by a Cabinet Member, the matter shall be referred to the Leader to determine the appropriate portfolio.

- 3.3 At any time before a decision on the Forward Plan has been taken, the Leader may allocate that decision to a different body or person within paragraph 3.2 (a) to (e) above.
- 3.4 The Cabinet meeting, when considering any matter referred to it, and unless the Leader directs otherwise, may delegate any aspect of the matter to a Cabinet Committee, an area committee or to an officer for decision but not so as to conflict with any decision already taken by the Cabinet Meeting. At a Cabinet meeting the Leader may reserve any aspect of the matter for his/her own decision at the time or subsequently.
- 3.5 An individual Cabinet Member may refer any decision, within that Member's responsibilities, to a meeting of the Cabinet or to the Leader for determination.
- 3.6 The Leader may take any executive key decision in place of, or between meetings of, the Cabinet, including decisions that have

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become urgent, in accordance with the Access to Information Procedure Rules at Part 4 of this Constitution and the procedures on urgent decisions in paragraph 1.7 of The Protocol on Decision-Making. The Leader may take such a decision alone but ~~will~~ may consult with any other Cabinet Member(s) having relevant portfolio responsibilities so far as is appropriate practicable. The Leader may also allocate any executive decision whether urgent or not to the Cabinet Member having the relevant portfolio responsibilities, or to a Committee of the Cabinet.

4. Assistant Cabinet Members

4.1 The Council may appoint Assistant Cabinet Members to provide an effective link between the Cabinet and other Councillors and to assist Cabinet Members generally and with specific roles within their portfolio.

4.2 The Assistant Cabinet Members:-

- (a) May not take Cabinet decisions
- (b) May have specific areas of focus within the relevant portfolio area
- (c) Will be able to substitute in certain circumstances for the Cabinet Members but not if a decision is to be made as part of the Cabinet arrangements
- (d) Can attend and participate in the absence of the relevant Cabinet Member at meetings of the Cabinet with the permission of the Leader but cannot vote
- (e) Cannot participate in a Scrutiny Panel or Review that is examining an area of policy within the relevant Cabinet Member portfolio responsibilities
- (f) May put questions to Cabinet Members at Council Question time but not in respect of the portfolio to which they have responsibility as an Assistant Cabinet Member
- (g) Assistant Cabinet Members may not take part in Cabinet decision-making in any way.

5. Deputy Leader of the Council

5.1 The Leader shall appoint a Deputy Leader of the Council from among the Cabinet Members (other than the Leader) and the Deputy Leader may carry out the deputising functions below in addition to having the responsibilities of one of the Cabinet Member portfolios.

5.2 The Deputy Leader may at the request of the Leader and in the Leader's absence:

- (a) deputise for the Leader by chairing meetings of the Cabinet and Leadership meetings
- (b) act as spokesperson on all matters that are the responsibility of the Cabinet

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- (c) represent the Council with regard to Member level contacts or meetings with Central Government and any regional, national or international organisations.

5.3 In the event that the Leader is unable to act or the office of Leader is vacant, the Deputy Leader may exercise all the functions of the Leader under this Constitution.

SECTION 2 - COMMITTEES OF THE EXECUTIVE CABINET

The Leader or the Cabinet may delegate any of its functions to a Committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Cabinet may establish decision-making Committees, which may only include Cabinet Members. The Cabinet may establish advisory Committees, the membership of which need not be limited to Cabinet Members. The Cabinet may change them, abolish them, or create further ones, at its own discretion.

Committees established by the Cabinet shall be empowered to perform their functions with immediate effect unless the Leader or the Cabinet imposes any express restriction when they are established. Unless stated otherwise, all Decision-Making Committees will continue in operation until expressly abolished by the Leader or the Cabinet and all Advisory or Consultative Committees will continue in operation only until the first meeting of the Cabinet in the next municipal year following their establishment when they must be expressly renewed or they cease to exist.

All functions that have been delegated to a Committee established by the Cabinet can still be taken by the Cabinet as the parent body (i.e. the body that delegated the decision), or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Cabinet Member or an alternative Committee of the Cabinet.

The establishment, abolition or cessation of Committees and the amendment of their terms of reference will be reported to full Council in due course for noting in the Council's Constitution.

~~The functions of the Cabinet under this Section shall be exercised with the agreement of the Leader and may be exercised by the Leader personally.~~

SECTION 3 – LEADER'S CONFERENCES

- ~~1. The Leader of the Council may at any time convene special conferences on particular issues. The terms of reference and membership of such conferences or meetings shall be specified by the Leader when convening such meetings.~~
- ~~2. The Leader shall hold meetings with Cabinet Members, Chairs and other Members as she/he may consider appropriate to recommend:~~

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- ~~(a) action to achieve declared policies and guidelines;~~
 - ~~(b) the settlement of conflicts between Services;~~
 - ~~(c) advice and guidance to be given to the Council, its committees, sub-committees or panels upon any matter within the purview of the Council, which will assist those bodies to discharge the Council's functions in accordance with their Terms of Reference.~~
- ~~3. The Leader's Conference meeting shall be provided with such advice, guidance and information appertaining to the Council's functions as may be necessary to enable it to give full and proper consideration to matters coming within its Terms of Reference.~~

SECTION 4 – CREATION OF NEW BODIES

Creation of New Cabinet Bodies

~~Proposals for the creation of new bodies exercising Cabinet functions to exist for more than three months shall be submitted to the Cabinet and the Leader with details of the proposed membership, terms of reference and comments by the Head of Local Democracy & Members Services on the staffing implications.~~