



NORTHAMPTON
BOROUGH COUNCIL

Council		Date	22 May 2006
Report Title	Political Structures and Miscellaneous Matters		
Item No			

Name	Signature	Date	Ext.
Author	Jim Inch/Francis Fernandes		
Corporate Manager			
Director			

Report of: Jim Inch/Francis Fernandes	Political Structures and Miscellaneous Matters
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Key Decision	NO
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1. Purpose and Brief Summary of the report

To seek Council's approval to a number of detailed matters in relation to the Political Structures and the Constitution.
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2. Options Available

	Option	Summary
<i>a</i>	To agree the report recommendations.	
<i>b</i>	Not to agree the report recommendations or to modify them.	

3. Recommendations

- (1) To ratify the appointment of Councillor Caswell as a substitute member of the Improvement Board.
- (2) That the Portfolios and responsibilities specified in Appendix 1 be approved
- (3) That the Leader be given delegated powers to choose both the content and the allocation of portfolios to Cabinet Members.
- (4) That the Scheme of Delegations for Cabinet members and its associated protocol both at Appendix 2 be noted.
- (5) That Council Procedure Rule 13 (Sealing of Documents) be amended so that Rule 13(2) begins "The Seal of the Council shall be attested by the Chief Executive, or by the Solicitor to the Council (or other Solicitor of at least team leader level who is so authorised by either the Chief Executive or the Solicitor to the Council) etc."
- (6) That the Solicitor to the Council be authorised to make changes to the Constitution to implement the changes outlined in this report.

4. Relevant Background

Improvement Board – Substitute

Prior to Councillor Larratt's resignation as Leader, Councillor Palethorpe was the Administration's substitute member of the Improvement Board. Upon Councillor Palethorpe's appointment as Deputy Leader he became a full member of the Board, and Councillor Caswell has undertaken the role of substitute. Council is asked to ratify that arrangement.

Portfolios and Scheme of Delegation

As part of the Constitutional changes agreed last September the Leader was given the power to specify the details of the Cabinet's Scheme of Delegation. However it was provided that each Cabinet member shall have designations in the following portfolios:

Community Engagement (Leader)
Financial Strategy; Democratic Services (Deputy Leader)
Business Intelligence; People Support; E-Government
Local Environment
Residential Operations
Economic and Infrastructure

A Scheme of Delegations for Cabinet members has been developed and agreed together with a protocol for its use. Both these documents are attached at Appendix 2 for noting.

The Leader's proposed portfolios and their allocation is attached at Appendix 1 and differs from the above. This has come about largely because of the reorganisation of the Cabinet made necessary by the previous leader's resignation. Council is asked to approve the revised description and allocation of the Portfolios. This will enable the Scheme of Delegation to be brought into operation and for delegated decision-making to commence immediately thereafter.

As stated in an earlier report to Council, the Council's Constitution is currently unclear as to where the responsibility for assigning Portfolios lies. The Leader currently has powers to specify and change his scheme of delegations to cabinet members. It is appropriate and in line with the changes brought about by the Local Government Act 2000 for the Leader to be given powers to identify both the content of the portfolios and their allocation to Cabinet members. Further, the context of this Council and the rapid pace of change makes it particularly important for the Leader to have the flexibility to swiftly align Cabinet responsibilities to meeting priority service needs.

Council is therefore asked to delegate powers to the Leader to choose both the content and allocation to Cabinet members. to consider giving the Leader the power in future to make changes in the allocation of Portfolio responsibilities, subject to reporting the changes back to the next available Council meeting.

Sealing of Documents

Following the organisational changes only two persons remain who can attest the fixing of the Council's seal to documents, namely the Chief Executive and the Solicitor to the Council.

In practice it is nearly always done by the latter, the majority of documents being procedural conveyancing ones, of which right to buy transfers probably form the biggest number. In order to provide for situations where neither the Chief Executive nor the Solicitor to the Council is available, changes to the Constitution are requested to authorise a Solicitor of Team Leader rank or above to attest the fixing of the seal.

5. Evaluation of Alternative Options

	Option	Evaluation Summary
<i>a</i>	Agree the report.	Suggested approach.
<i>b</i>	Not agree the report.	Delegated decision-making is critical to the Council's Governance arrangements and failure to agree this aspect could put decision-making at risk.
<i>c</i>		

6. Consultees (Internal and External)

Internal	
External	

7. Compliance Issues

Links to Relevant Council Priorities
Recovery Plan
Development of appropriate political structures has been identified as essential to Recovery.
Corporate Plan
Effective decision-making is critical to implementing the strategies within the plan.
Other Strategies
N/A

Financial Implications
None directly

Legal Implications
All recommendations comply with the appropriate legislative requirements.

Crime & Disorder Issues
None directly

Children Act Issues
None directly

Risk Management Issues
The proposed clarification of some issues may reduce the risk of legal challenge.

Equalities Compliance Issues
None

8. Background Papers

Title	Description	Source
The Constitution Previous reports and minutes		The Council

Appendix 1

NORTHAMPTON BOROUGH COUNCIL CABINET PORTFOLIOS

LEADER OF COUNCIL

– COMMUNITY PARTICIPATION & FINANCIAL STRATEGY

Community Participation (incl. Forums, Partnerships, Participation Panel Community Centres and Public Consultation)
Cultural Development
Finance Management
Financial strategy & Accounting Services
Audit
Insurance and Risk Management
Asset Management
Markets
Project Development & Co-ordination

DEPUTY LEADER OF COUNCIL

- BUSINESS INTELLIGENCE, PEOPLE SUPPORT & E-GOVERNMENT

Business Process & Improvement
Community Safety (incl. Health & Safety, CCTV, Call Care, Crime & Disorder, Partnerships)
Customer Services (Corporate)
Grants
Human Resources (People Operations and Development, Employee Welfare, Equalities and Diversity in the workplace, Local Joint and Health & Safety)
IT Customer Support
IT Systems and Infrastructure
Performance Management (continuous improvement)

COMMUNITY ENGAGEMENT & DEMOCRATIC SERVICES

Communications
Community Wellbeing
Community Development
Emergency Planning
Legal Services (incl. Right to Buy, Licensing and Land Charges)
Councillor & Management Support
Meeting Services (Cabinet, Scrutiny, Audit, Regulatory etc.)
Electoral Services
Street Cleansing & Street Scene
Parks and Open Spaces

RESIDENTIAL OPERATIONS

Housing Services and Management
Housing Estates
Housing Advice and Homelessness
Housing Allocations
Rents
Council Tax Collection
Revenue and Benefits
Travellers

ECONOMIC AND INFRASTRUCTURE

Planning Policy & Conservation (incl. Housing Strategy)
Regeneration (incl. WNDC and English Partnerships Link and Funding opportunities)
Town Centre
Economic Development & Intelligence
Tourism
Car Parks

LOCAL ENVIRONMENT

Waste Management (incl. Waste Operations and Minimisation)
Recycling
Events/Museums
Environmental Health (incl. Environmental protection)
Leisure (incl. Sports Development)
Development & Building Control
Neighbourhood Wardens
Direct Services Organisations
Property Maintenance

Appendix 2

LEADER'S SCHEME OF DELEGATIONS

A. INTRODUCTION

The Council has delegated powers to the Leader to determine his/her own Scheme of Delegations for Executive functions.

This Scheme of Delegations sets out the powers which are reserved to Cabinet and the Leader and those powers which are delegated to individual Cabinet Members. This Scheme of Delegations can and will be changed in accordance with the wishes of the Leader but prior notification will be given in accordance with the Protocol that accompanies this Scheme of Delegations.

The Leader's Scheme of Delegations does not in any way impact upon delegations to the Improvement Board already in the Constitution.

B. DELEGATIONS

1. Powers Reserved to Cabinet

- 1.1 To be responsible for decisions which the Leader or the Deputy Leader (when deputising for the Leader) or Cabinet direct should be referred to Cabinet.
- 1.2 To be responsible for any Executive functions which involve a recommendation to Council including budget and policy proposals.
- 1.3 To be responsible for making Key Decisions.
- 1.4 To receive and respond to:
 - (a) reports to the Executive from the Overview and Scrutiny Committee, Monitoring Officer and Section 151 Officer;
 - (b) recommendations from Council;
 - (c) reports from external and internal auditors.
- 1.5 To be responsible for those Local Choice functions identified as the responsibility of Cabinet, in Part 3 of the Constitution.
- 1.6 To be responsible for any matter within a Cabinet Member's powers that has been referred to Cabinet by the Cabinet Member concerned.
- 1.7 To be responsible for matters that cross two or more Cabinet Members' portfolios.

2. General Powers Delegated to all Cabinet Members

Subject to the limitations in section 3 below, Cabinet Members shall within their respective areas of responsibility have the following powers:-

- 2.1 After consulting the Chief Executive or his/her nominee to approve and set priorities, programmes and service plans.
- 2.2 To monitor budgets and the performance of services.
- 2.3 To receive formal reports.
- 2.4 To agree the submission of bids for funding and resources from the Government or other agencies.
- 2.5 After consulting the Chief Executive or his/her nominee to agree to the appointment of consultants.
- 2.6 To take those Executive decisions which it is within the delegated powers of an Officer to take, and the Officer having such power, nevertheless refers to the Cabinet Member by reason of the decision's importance, sensitivity or precedence value.
- 2.7 To consider reports and agree to recommendations regarding the acceptance of a tender which is not the lowest (where payment is to be made by the Council) or the highest (where payment is to be received by the Council) in accordance with the Council's Contract Procedure Rules.
- 2.8 To make decisions on requests for waiver of the Procurement Code of Practice.
- 2.9 To be responsible for all staffing matters within his/her portfolio area not allocated or delegated to another Officer, individual or body.
- 2.10 To refer any matter within his/her delegated powers to Cabinet for decision.

3. Limitations on Delegated Powers

- 3.1 Nothing in this Scheme of Delegations authorises a Cabinet Member other than the Leader or the Deputy Leader (when deputising for the Leader) to make a decision which is a Key Decision. For the purposes of this Scheme of Delegations Key Decisions are defined as follows:
 - Any decision in relation to an Executive function which results in the 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. For these purposes the minimum financial threshold will be £50,000.
 - Where decisions are not likely to involve significant expenditure or savings but nevertheless are likely to be significant in terms of their effects on communities in two or more wards or electoral divisions.

- For the purposes of interpretation a decision which is ancillary or incidental to a Key decision which has been previously taken by or on behalf of the Council shall not of itself be further deemed to be significant for the purposes of the definition.

3.2 Nothing in this Scheme of Delegations authorises a Cabinet Member to make a decision which is:

3.2.1 contrary to the Council's policy framework or budget

3.2.2 contrary to the Council's Financial Procedure Rules

3.2.3 contrary to the Council's Contract Procedure Rules

3.2.4 contrary to any decision made by the Council or by Cabinet collectively

3.2.5 by law only to be taken by some other person or body or in some other way

3.2.6 subject to a requirement by either Cabinet or the Leader to be referred to Cabinet

3.2.7 not the responsibility of the Council's Executive

3.2.8 a decision that has been specifically reserved to the Council, other body or (except where 2.6 above applies) delegated to Officers.

4. **Powers Delegated to Particular Cabinet Members**

4.1 Cabinet Members who hold certain portfolios are given the specific powers given below. These powers are in addition to the powers delegated to all Cabinet Members described in section 2 above. For the avoidance of doubt if any specific power described below contains a limitation then a decision or action outside the limitation cannot be taken by the Cabinet Member concerned under his/her general delegated powers under section 2 but must be referred to full Cabinet. The limitations in section 3 above also apply to the specific powers below.

4.2 **Powers Reserved to the Leader of the Council – Community Participation and Financial Strategy Portfolio**

4.2.1 To vary this Scheme of Delegations of Executive functions.

4.2.2 To direct that particular decisions or classes of decisions within the powers of Cabinet Members be referred to the Leader or Cabinet for decision.

4.2.3 To exercise any Executive powers and duties not reserved to Cabinet or delegated to an Officer, a Cabinet Member, individual or other body.

- 4.2.4 To act on behalf of any other Cabinet Member who is absent or unable to act, or to authorise another Cabinet Member to do so.
- 4.2.5 To determine any conflicts of opinion or decision which may arise between two or more Cabinet Members exercising delegated decisions under this Scheme of Delegations.
- 4.2.6 To make Key Decisions in matters of Urgency or Special Urgency.
- 4.2.7 To exercise the Executive powers and duties of the Council for the areas within the following portfolio:

Community Participation and Financial Strategy Portfolio

Asset Management
Audit
Community Participation (incl. Forums, Partnerships, Participation Panel, Community Centres and Public Consultation)
Cultural Development
Finance Management
Financial Strategy & Accounting Services
Insurance and Risk Management
Markets
Project Development & Co-ordination

4.3 **Powers of the Deputy Leader – Business Intelligence, People Support and E-Government Portfolio**

- 4.3.1 To deputise for the Leader in his/her absence, or at his/her instruction, in relation to all functions which are the Leaders responsibility.
- 4.3.2 To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Business Intelligence, People Support and E-Government

Business Process and Improvement
Community Safety (incl. Health & Safety, CCTV, Call Care, Crime & Disorder, Partnerships)
Customer Services (Corporate)
Grants
Human Resources (People Operations and Development, Employee Welfare, Equalities and Diversity in the Workplace, Local Joint and Health & Safety)
IT Customer Support
IT Systems and Infrastructure
Performance Management (continuous improvement)

4.4 **Powers of the Portfolio Holder - Residential Operations Portfolio**

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Residential Operations Portfolio

Council Tax Collection
Housing Advice and Homelessness
Housing Allocations
Housing Estates
Housing Services and Management
Rents
Revenue and Benefits
Travellers

Without prejudice to the generality of the powers above to have the following specific powers:

- 4.4.1 Agreeing changes (virement) within the housing capital budget (but which require no overall increase in the budget) where the amount of virement is in excess of £50,000 in the current year, or where it is less but the change affects future years.
- 4.4.2 Agreeing to the disposal of dwellings (subject to the terms of any specific or general consent of the Secretary of State) in circumstances or in a manner not covered by the Right to Buy, and in particular under arrangements to enable tenants to finance the purchase of their homes by methods compliant with Islamic law (Sharia).
- 4.4.3 Agreeing to demand less than the maximum amount of discount recoverable on the further disposal of a sold Council dwelling.
- 4.4.4 Adopting policies, practices or protocols (including arrangements with one or more registered social landlord) to deal with offers of first refusal of sold Council dwellings.
- 4.4.5 Adopting policies, practices and standards (so far as is within the Council's discretion) with regard to the implementation of the following Parts of the Housing Act 2004:
- Part 1 (Housing Conditions).
 - Part 2 (Licensing of Houses in Multiple Occupation).
 - Part 4 (Additional Control Provisions in relation to Residential Accommodation).

4.5 **Powers of the Portfolio Holder - Local Environment Portfolio**

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Local Environment Portfolio

Development & Building Control
Direct Services Organisations
Environmental Health (incl. Environmental Protection)
Events/Museums
Leisure (incl. Sports Development)
Neighbourhood Wardens
Property Maintenance
Recycling
Waste Management (incl. Waste Operations and Minimisation)

Without prejudice to the generality of the powers above to have the following specific powers:

- 4.5.1 Accepting on behalf of the Council facilities provided under projects such as CASPAR and approving arrangements for the ongoing maintenance of such facilities.
- 4.5.2 Authorising amendments to the rules made by the Council under Section 28 of the Smallholdings and Allotments Act 1908 as amended after the Northampton Allotment Council have been consulted on and agree to any such amendments.

4.6 **Powers Reserved to the Portfolio Holder - Economic and Infrastructure Portfolio**

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Economic and Infrastructure

Car Parks
Economic Development & Intelligence
Planning Policy & Conservation (incl. Housing Strategy)
Regeneration (incl. WNDC and English Partnerships Link and Funding Opportunities)
Tourism
Town Centre

4.7 Powers Reserved to the Portfolio Holder - Community Engagement & Democratic Services Portfolio

To exercise the Executive powers and duties of the Council for the areas within the following portfolio unless a direction by the Leader under sections 1.1 and 4.2.2 has been issued and communicated in writing to the Cabinet Member:

Communications
Community Development
Community Wellbeing
Councillor & Management Support
Electoral Services
Emergency Planning
Legal Services (incl. Right to Buy, Licensing and Land Charges)
Meetings Services (Cabinet, Scrutiny, Audit, Regulatory etc)
Parks and Open Spaces
Street Cleansing & Street Scene

4.7.1 Agreeing to accept donations of land for use as public open space or community purposes pursuant to agreements under Section 106 of the Town and Country Planning Act 1990 or in similar circumstances.

4.7.2 Agreeing to the disposal or appropriation of areas of public open space of not more than 5,000 square metres, subject to public advertisement and the consideration of any objection by full Cabinet.

CABINET MEMBER DECISIONS – PROTOCOL

1. INTRODUCTION

1.1 The Council has formally delegated powers to the Leader of the Council to prepare a Scheme of Delegations for individual Cabinet Members. This scheme is separate from the Scheme of Delegations for Officers. To prevent any confusion between the different schemes this Protocol will refer to the “Leader’s Scheme of Delegations”. This Protocol accompanies the Leader’s Scheme of Delegations but does not formally form part of it. However, the Protocol will appear in the Constitution.

Under the Leader’s Scheme of Delegations the following will have delegated powers to make Executive decisions:-

- Cabinet collectively
- The Leader
- The Deputy Leader
- Individual Members of Cabinet

Under the Leader’s Scheme of Delegations Cabinet Members will **not** be able to make Key Decisions. Cabinet will be the main body making Key Decisions, although the Leader or the Deputy Leader, when deputising for the Leader, will be able to make Key Decisions when they are required urgently.

The Council has never operated delegated Executive decision-making and there is therefore a need for close attention to be paid to this Protocol. It is also important for legal advice to be taken whenever there is uncertainty or lack of clarity.

This Protocol is aimed at:-

- Members of Cabinet
- Senior Staff advising Cabinet Members
- Staff responsible for preparing and submitting reports for decision
- Staff operating the Protocol’s requirements (e.g. Meetings Services)

The Leader will be able to change this Scheme of Delegations but will only be able to do so if the following is complied with. At least 21 calendar days written notice will be given to all Cabinet Members; the Chair of Overview and Scrutiny; the Head of Paid Service; the Council’s Monitoring and Section 151 Officers. Any changes to the scheme will not affect the validity of decisions already taken.

1.2 Decision- making some brief comments

Council functions and the decisions that follow have various legal classifications and the classification impacts upon who can make a decision. For the purposes of this Protocol only what the law classifies as “Executive functions” will be discussed.

Executive functions are defined by the Local Government Act 2000 (the 2000 Act) and its associated regulations. After the changes brought about by the 2000 Act, the Executive (Cabinet) are responsible for functions of the Council not allocated by legislation or the Constitution elsewhere. The way this works is that there are some decisions that can only be made by the Executive, there are some decisions that may be made by the Executive (referred to as Local Choice functions) and some decisions that cannot be made by the Executive (for example development control and licensing decisions).

Post the 2000 Act changes, full Council is responsible for the broad strategic/policy decisions, for example the policy framework and the Executive are responsible for decisions within that framework (unless of course they have been allocated elsewhere). The legal analysis can be complicated and often there needs to be a proper legal assessment of whether a decision is an Executive decision, or whether some other body should make the decision, for example, full Council or the Improvement Board.

2. DELEGATED DECISIONS

Once an Executive decision has been identified, the issue the report writer needs to grapple with is who will be making the decision. There are a number of possibilities. It may be covered by the Officer’s Scheme of Delegations in which case the Officer with the delegations should be approached in the normal way. If the decision is covered by the Leader’s Scheme of Delegations an assessment needs to be made whether it is a decision for Cabinet, Improvement Board, the Leader or individual Cabinet Member. **If in doubt seek legal assistance.**

If the decision is an Executive decision and it has a strong improvement/recovery impact then the Constitution allows the decision to be made by the Improvement Board (technically by Executive members on the Improvement Board). In cases where improvement or recovery is a strong theme a manager at Corporate Manager level or above should be consulted as to where the decision lies. Legal advice should be sought if appropriate.

Whatever the case the Officer requiring a decision will have to prepare a formal report. A decision by a Cabinet Member must **not** under any circumstances be made without a full written report outlining all the relevant issues. A report will have to be completed in the format attached at **Appendix 1**. The report will need to have clear recommendations and the body of the report will need to have sufficient information to enable the

decision-maker to make an informed decision. Normal compliance issues such as legal and financial implications will need to be considered very carefully. It is extremely important to bear in mind that the vigour and approach in relation to delegated decision-making must not in any way be less than the approach for normal decision-making meetings.

Whilst the report represents the end product of a required decision, Officers and Cabinet Members should develop effective working relationships and the expectation is that there should be clear and effective dialogue between the Cabinet Member concerned and the senior management before a report is prepared and presented for decision.

2.1 The process to be followed

When an Executive decision is required, unless it is urgent (see further provisions for urgent decisions) the Officer requiring the decision will need to notify Meetings Services of the decision required and the title of the likely report. Proper authority must be obtained from the relevant Corporate Manager or Director. Meetings Services will not accept reports unless there is confirmation in writing (or e-mail) that Corporate Manager or Director authority has been obtained.

Meetings Services will, on receipt of a title of a report, send these details to the Leader and Deputy Leader for their information.

On receipt of the title of a proposed report Meetings Services will add to the Non-Statutory Decision List (the List) and an updated List will be published on prearranged publication dates. The List will take effect on the first working day of each month and the List will be published at least 14 calendar days before it takes effect. The format of the List will be similar to the draft attached at **Appendix 2**.

From the publication of the List, Councillors or members of the public will have at least 14 calendar days before the List comes into effect to request that a certain item should be held in public (i.e at least 14 calendar days working backwards from the first working day of each month). If the Councillors or members of the public comply with this time limit, the item will be considered in a normal open, public meeting. The normal rules of access, notice requirements for publication of agendas, etc. will apply as currently apply in the Council's Constitution.

The operations of the timings are relatively complicated, so Meetings Services should be contacted for guidance if required.

It should be noted that there are provisions in the Constitution that protect against abuse of the requirement for the holding of public meetings. For example where block requests are made without good reason. In these cases the Council's Monitoring Officer will be asked to determine whether there has been unreasonable abuse of the requirement to hold public meetings. If the Monitoring Officer is of the opinion that there has been abuse (a written decision by the

Monitoring Officer will be required) then any request to hold a public meeting can be disregarded.

2.2 Delegated decision-making where prior notification of requirement for a public meeting

Where a Councillor or a member of the public indicates that a decision on the Non-Statutory Decision List should be held in public (and the time limits are complied with) then the matter will be considered in a public meeting. The normal rules for public meetings will apply. Papers will be published at least 5 clear days before the meeting etc.

It is important to point out that if grounds set out in Schedule 12A (as amended) of the Local Government Act 1972 apply, then a matter will be considered in private notwithstanding that a valid request for the matter to be held in public is made.

2.3 Delegated decision-making where no prior notification of requirement for a public meeting

Where Cabinet Member delegated decisions are **not** to be made in public meetings, the following requirements will apply.

At least 5 clear working days before the decision is made:

- A copy of the report in the required format, with Appendices must be submitted and published on the intranet. Meetings Services will need to be contacted in relation to this.
- All Councillors will be notified by Meetings Services by e-mail of the publication of the report.

Unless the decision is urgent, the Cabinet Members will not be able to make the decision until the 5 clear days have passed (5 clear working days means that the day of publication or the date the decision is actually made is not included in calculating the 5 days).

During the 5 clear working days notice period, Councillors will be entitled to make any comments, observations or representations to the Cabinet Member concerned about the report. These can be sent to the Cabinet Member direct or sent to Meetings Services for forwarding on. The Cabinet Member will have regard to the comments if appropriate and will be entitled to refer the report back to Officers for comments and advice as appropriate.

A flow chart outlining the main decision points is attached at **Appendix 3**.

2.4 Once the decision is made

Once the decision has been formally made by the Cabinet Member (outside the 5 clear working days), a decision notice in the form of the template appended at **Appendix 4** will be completed and posted on the Council's inter-intranet. A hard copy of the decision notice will be sent to the Chair of Scrutiny by Meetings Services, together with electronic copies of the decision notice to all Members of Overview & Scrutiny Committee. The decision notice will clearly specify the date the decision was made, the date it was posted on the inter-intranet and the date the call-in period expires. The decision will not be implemented by Officers until 3 clear working days have passed from the date of publication (unless the Urgency and Special Urgency provisions apply). This is to enable the normal call-in provisions to apply.

2.5 General principles for Individual Cabinet Member decisions

Individual Cabinet Members will apply the same strict criteria to decision-making that they would in normal open meetings:

- A decision should not be made if
 - a conflict of interest arises
 - a personal and prejudicial interest exists
 - the procedures outlined in this Protocol have not been complied with
 - the Monitoring Officer or the Section 151 Officer has advised that the decision cannot be made
- In making any decision, Cabinet Members **must have due regard to professional advice received from Officers, especially legal and financial advice.** No decision should be made unless proper advice has been sought and provided. Normally details of professional advice should be clear within the body of the report.

2.6 Reporting Requirements

Each Cabinet Member will be required to report periodically (at least every 6 months) to Cabinet on all the delegated decisions made by the Cabinet Member concerned. Details of all items considered together with the decision and the date of the decision will be provided.

2.7 Matters of Urgency

There may be times where urgent decisions will need to be made and if not made will seriously prejudice the Council's or the public's interests. In these cases it may not be practicable for normal procedures to be followed, such as complying with the publication of the item on the Non-Statutory Decision List.

In these cases the decision can still be made so long as the procedures in the Overview and Scrutiny Procedure Rules are complied with (Part 4 of the Council's Constitution). These rules provide that:

“the Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency”.

Urgent decisions that have not appeared on or cannot by reason of time, be put on the Non-Statutory Decision List and/or which by reason of urgency need implementation immediately (so Call-In does not apply) can be made so long as the Mayor consents that the matter is to be treated as an urgent matter and that it is reasonable to use the urgency procedure. If the Mayor is unavailable the Deputy Mayor's consent shall be required. In the absence of the Deputy Mayor the Head of Paid Service or his or her nominee's consent shall be required.

Please note that the above applies to non-Key Decisions.

Unlike other Cabinet Members the Leader or the Deputy Leader when deputising for the Deputy Leader will be able to make Key Decisions when a decision is required urgently. Where the Key Decision is not on the Forward Plan, then the urgency provisions and the special urgency provisions will apply (as outlined in Part 4 of the Council's Constitution (clauses 25 and 16).

These rules provide for decisions to be made and implemented immediately so long as notice requirements are complied with and the Chair of Scrutiny is consulted and in some cases his or her agreement is obtained.

Whilst the Leader has the power under the Leader's Scheme of Delegations to make urgent Key Decisions this power will only be used in exceptional circumstances. Key Decisions will therefore, in the main, be made by Cabinet collectively.

Matters for Cabinet Members to consider before making a decision

- *Were you consulted or contacted prior to the report being prepared?*
- *Has a report in the proper format been submitted?*
- *Does the decision fall within the Leaders Scheme of Delegations?*
- *Is the decision one you would rather or the Leader has requested be referred to Cabinet?*
- *Is the decision an Improvement Board matter?*
- *Have there been proper departmental consultations especially legal and financial implications?*
- *Is a Key decision involved?*
- *Are there any reasons why you cannot make the decision for example a personal and prejudicial interest?*
- *Has the report appeared on the Non- Statutory Decision List?*
- *Can the decision be made in private or must it be made in a public meeting?*

Matters for Officers to consider before making a decision

- As above
- *Have you got senior management authority to submit a report for decision?*
- *Have you had early discussions with the Cabinet member about any report to be submitted?*
- *If you are asking for an urgent decision, have you taken legal advice on whether the urgency criteria apply?*

Useful Contact Numbers:

- Francis Fernandes
Solicitor to the Council ext 7334
- Jim Inch
Senior Solicitor ext 7335
- Frazer McGown
Team Leader –
Meetings Services ext 7101