

# **APPENDIX 1**

## **Text of Principal Amended Provisions**

# Article 6 – Overview and Scrutiny Committees

## 6.1 Terms of Reference

The Council will appoint the Overview and Scrutiny Committees set out in the left-hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right-hand column of the table.

Committee	Scope
<p><b>Overview and Scrutiny Committee 1: Partnerships, Regeneration and Community Safety and Engagement</b></p>	<p>Those functions falling within the following portfolio responsibilities assigned to Cabinet Members:-</p> <p><b>Improvement &amp; Strategic Partnership</b></p> <ul style="list-style-type: none"> <li>• Partnerships</li> <li>• Communications</li> </ul> <p><b>Regeneration</b></p> <ul style="list-style-type: none"> <li>• Planning Policy &amp; Conservation</li> <li>• Regeneration</li> <li>• Economic Development &amp; Intelligence</li> <li>• Development &amp; Building Control</li> <li>• Markets</li> <li>• Project Development and Co-ordination</li> <li>• Housing Strategy</li> </ul> <p><b>Community Engagement &amp; Safety</b></p> <ul style="list-style-type: none"> <li>• Community Participation</li> <li>• Community Safety</li> <li>• Community Wellbeing</li> <li>• Community Development</li> <li>• Cultural Development</li> <li>• Emergency Planning</li> <li>• Town Centre Operations</li> <li>• Car Parks</li> <li>• Customer Services</li> <li>• Events &amp; Museums</li> <li>• Leisure</li> <li>• Community Grants</li> </ul>

<p><b>Overview and Scrutiny Committee 2 : Housing and Environment</b></p>	<p>Those functions falling within the following portfolio responsibilities assigned to Cabinet Members</p> <p><b>Housing</b></p> <ul style="list-style-type: none"> <li>• Housing Services &amp; Management</li> <li>• Housing Estates</li> <li>• Housing Advice &amp; Homelessness</li> <li>• Housing Allocations</li> <li>• Rents</li> <li>• Revenue and Benefits</li> <li>• Council Tax Collection</li> </ul> <p><b>Environment</b></p> <ul style="list-style-type: none"> <li>• Street Cleansing &amp; Street Scene</li> <li>• Parks &amp; Open Spaces</li> <li>• Waste Management</li> <li>• Recycling</li> <li>• Environmental Health</li> <li>• Director Services Organisations</li> <li>• Travellers</li> <li>• Neighbourhood Wardens</li> <li>• Property Maintenance</li> </ul>
<p><b>Overview and Scrutiny Committee 3 : Improvement, Performance and Finance</b></p>	<p>Those functions falling within the following portfolio responsibilities assigned to Cabinet Members:</p> <p><b>Performance</b></p> <ul style="list-style-type: none"> <li>• Performance Management</li> <li>• IT Customer Support</li> <li>• IT Systems &amp; Infrastructure</li> <li>• Business Process &amp; Improvement</li> <li>• Human Resources</li> <li>• Legal Services</li> <li>• Councillor &amp; Managerial Support</li> <li>• Meeting Services</li> <li>• Electoral Services</li> </ul> <p><b>Finance</b></p> <ul style="list-style-type: none"> <li>• Finance Management</li> <li>• Financial Strategy</li> <li>• Audit</li> <li>• Insurance &amp; Risk Management</li> <li>• Asset Management</li> </ul>
<p>The Council will also appoint an Overview &amp; Scrutiny Management Committee with terms of reference set out in 6.5.</p>	

## 6.2 **General role**

Within their terms of reference Overview and Scrutiny Committees will:

- 6.2.1 review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- 6.2.2 make reports and/or recommendations to the full Council and/or the Cabinet as the case may be in connection with the discharge of any functions;
- 6.2.3 consider any matter affecting the area or its inhabitants; and
- 6.2.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet or a Committee of the Cabinet or by individual Members of the Cabinet or (in the case of key decisions) by Officers.

## 6.3 **Specific functions**

6.3.1 **Policy development and review** Overview and Scrutiny Committees may:

- assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- conduct research, community and other consultation in the analysis of policy issues and possible options;
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question members of the Cabinet, committees and Directors about their views on issues and proposals affecting their functions; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

6.3.2 **Scrutiny** Overview and Scrutiny Committees may:

- review and scrutinise the decisions made by and performance of the Cabinet, committees and Council officers

save that where the Overview and Scrutiny Committee is reviewing the decisions of another committee of the Council it will not scrutinise individual decisions particularly in respect of development control, licensing, registration, consents and other particular matters other than within the general context of any wider policy review, and shall not act as an appeal forum in respect of such individual decisions;

- review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- question members of the Cabinet and/or committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- make recommendations to the Cabinet and/or appropriate committees and/or Council arising from the outcome of the overview and scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- question and gather evidence from any person (with their consent).

6.3.3 **Finance** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.

6.3.4 **Annual report** Overview and Scrutiny Committees may report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.3.5 **Officers** Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

## 6.4 **Proceedings of Overview and Scrutiny Committees**

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## **6.5 Overview and Scrutiny Management Committee**

The Council will appoint an Overview and Scrutiny Management Committee to co-ordinate and manage the work of the Overview and Scrutiny Committees. The Management Committee will comprise six Members who will normally be the Chairs and Deputy Chairs of the three Overview and Scrutiny Committees. The Management Committee will have the following responsibilities:

### **6.5.1 Co-ordinating work plans**

To co-ordinate work plans to avoid duplication and ensure joint working, or other suitable arrangements, where the remit of Committees may overlap.

### **6.5.2 Allocation of Resources**

To consider the overall work loads of Overview and Scrutiny Committees and to agree to the allocation of resources to each Committee according to need on an equal basis.

### **6.5.3 Allocating Areas of Responsibility in Cases of Doubt**

Where it is not clear which of the Committees has responsibility for an area to make a decision in that regard and allocate the area to one of the Committees.

### **6.5.4 Re-allocation of Areas of Responsibility in the Event of Changes in Cabinet Portfolios**

If the Cabinet portfolios should be changed (whether in number content or both) to consider what modifications are appropriate to the table set out at 6.1 above in order to reflect those changes; and to re-allocate responsibility between the three Overview and Scrutiny Committees accordingly.

### **6.5.5. Involvement of other People in Overview and Scrutiny Process**

To review arrangements for involving Councillors or people outside the Council, in the Overview and Scrutiny process, such as by co-option, or setting up working parties which include outside representatives and be responsible for agreeing appointments of external parties to relevant Overview and Scrutiny Committees.

#### **6.5.6. Training and Development**

To review training needs of Overview and Scrutiny Committee Members and of Councillors and Council employees generally in relation to the Overview and Scrutiny process; and to consider the development of operational styles and techniques to aid the usefulness and effectiveness of the Overview and Scrutiny process.

#### **6.5.7 Support Needs**

To consider any general issues which arise with regard to the levels of co-operation and support which the Overview and Scrutiny Committees receive from other parts of the Council.

# Article 7 - The Cabinet

## 7.1 Role

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution. They are the Council's executive for the purposes of the Local Government Act 2000.

## 7.2 Form and composition

The Cabinet will consist of the Leader together with not less than two and no more than nine other Councillors appointed to the Cabinet by the Leader.

## 7.3 Leader

The Leader will be a Councillor elected annually to the position of Leader by the Council. The Leader will hold office until:

- 7.3.1 he/she resigns from office; or
- 7.3.2 he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- 7.3.3 he/she is no longer a Councillor; or
- 7.3.4 the following annual Council meeting; or
- 7.3.5 he/she is removed from office by resolution of the Council.

## 7.4 Deputy Leader

The Deputy Leader will be a Councillor elected annually to the position of Deputy Leader by the Council. The Deputy Leader will hold office until:

- 7.4.1 he/she resigns from office; or
- 7.4.2 he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- 7.4.3 he/she is no longer a Councillor; or
- 7.4.4 the following annual Council meeting; or



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

## 7.5 **Other Cabinet members**

Other Cabinet members shall hold office until:

7.5.1 they resign from office; or

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

7.5.3 they are no longer Councillors; or

7.5.4 the annual Council meeting following their appointment; or

7.5.5 they are removed from office by the Leader either individually or collectively (such removal taking effect upon receipt by the Chief Executive of a written notice to that effect from the Leader).

## 7.6 **Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

## 7.7 **Responsibility for functions**

The Leader will determine which individual Members of the Cabinet, Committees of the Cabinet, Officers or Joint or other bodies are responsible for the exercise of particular executive functions. A list will be maintained in Part 3 of this Constitution setting out which individual members of the Cabinet, are responsible for the exercise of particular executive functions.

A list will be maintained in Part 8 of functions which are delegated to officers.

## PART 3 - Responsibility for Functions

1. [No change]
2. Responsibility for Council Functions

Committee	Membership	Functions	Delegation of functions
<b>Planning</b>	11 members of the Council	<p><b>Planning and conservation</b> Functions relating to town and country planning and development control specified in Schedule 1 of the Functions Regulations</p> <p><b>Highways use and regulation</b> The exercise of powers relating to the regulation of the use of highways, footpaths, bridleways, public paths and rights of way set out in Schedule 1 of the Functions Regulations as amended.</p> <p><b>Hedges and Trees</b> The exercise of powers relating to the protection of important hedgerows and the preservation of trees set out in Schedule 1 of the Functions Regulations.</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein</p> <p>The Planning Committee may delegate to a Sub-Committee (which may be styled the Tree Panel) the function of considering objections to tree preservation orders and deciding whether or not to confirm such orders (with or without modification) where any such objections have been made and not withdrawn.</p>
<b>Licensing</b>	11 members of the Council	<p><b>Sale/Supply of Alcohol and Provision of Entertainment and Late Night Refreshment and Gambling;</b> The licensing functions of the Council under the Licensing Act 2003 and the Gambling Act 2005 (except for such functions as cannot be delegated)</p>	<p>Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein</p>

		<p><b>Taxi, gaming, entertainment, food and miscellaneous licensing</b> Functions relating to licensing and registration set out in Schedule 1 of the Functions Regulations</p> <p><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 employer</p>	
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<b>Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of functions</b>
<b>Standards Committee</b>	4 members of the Council other than the Leader three independent members and two Parish Council members	<p><b>The promotion and maintenance of high standards of conduct within the Council</b></p> <p>To advise the Council on the adoption or revision of its Code of Conduct</p> <p>To monitor and advise the Council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Standards Board and recommendations of case tribunals under section 80 of the Local Government Act 2000</p> <p><b>Assistance to members and co-opted members of the Council</b></p> <p>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 from local councillors under the Code</p> <p><b>Other functions</b></p> <p>Functions relating to standards of conduct of members under any relevant provision of or Regulations made under the Local Government Act 2000</p>	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein

Committee	Membership	Functions	Delegation of functions
<b>Audit Committee</b>	7 members of the Council excluding members of the Cabinet	Generally considering all relevant processes for risk, control and governance set out in Article 9.	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to officers as provided therein
<b>General Purposes Committee</b>	9 Members of the Council	To exercise those functions which under the Functions Regulations or other relevant legislative provision, are not to be the responsibility of a local authority's executive; and which have not been made the responsibility of any other Committee of the Council and are not functions that only the full Council can exercise (whether by law or under any provision of the Constitution or because of a specific direction or election by Council to that effect).	
<b>Appointments and Appeals Committee</b>	7 Members of the Council to include at least 2 Members of Cabinet	<ul style="list-style-type: none"> <li>(i) To recommend to the Council the appointment of the Chief Executive</li> <li>(ii) To make appointments of other Chief Officers set out in Article 13 of this Constitution.</li> <li>(iii) To undertake all</li> </ul>	

		<p>associated activities including agreeing job descriptions, person specifications, the interview processes generally, and agreeing the advertisements for the relevant jobs.</p> <p>(iv) To establish, agree terms of reference and appoint to the following three Sub-Committees (of the Appointments and Appeals Committee) to hear and determine disciplinary, capability, grievance and appeal matters in relation to Chief Officers and the three Statutory Officers:</p> <ul style="list-style-type: none"> <li>• Investigating and Disciplinary Sub-Committee</li> <li>• Grievance Sub-Committee</li> <li>• Appeals Sub-Committee</li> </ul>	
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### 3. Responsibility for Executive Functions

<b>Responsibilities and Portfolios</b>	<b>Detailed Functions</b>	<b>Delegation of functions</b>
The Cabinet has collective responsibility for all executive functions, individual members having lead responsibility for separate portfolios outlined in the Leader's Scheme of Delegations.	Contained in the Leader's Scheme of Delegations (see post)	Those functions referred to in Part 8 of this Constitution (Delegations) are delegated to individual Cabinet members and officers as provided therein.

# 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.

## 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 Cabinet from the Overview and Scrutiny Committees, 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 this 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 (so far as these are an executive responsibility) 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 – Improvement and Strategic Partnerships Portfolio**

- 4.2.1 To vary this Scheme of Delegations of executive functions including the ability to bring key decisions within this clause of delegations.
- 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.
- 4.2.4.1 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:

**Improvement & Strategic Partnerships**

Partnerships
Communications

**4.3 Powers of the Deputy Leader –Community Engagement and Safety 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:

**Community Engagement & Safety**

Community Participation
Community Safety
Community Wellbeing
Community Development
Cultural Development
Emergency Planning
Town Centre Operations
Car Parks
Customer Services
Events and Museums
Leisure
Community Grants

**4.4 Powers of the Portfolio Holder - Performance**

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:

**Performance**

Performance Management
IT Customer Support
IT Systems & Infrastructure
Business Process & Improvement
Human Resources
Legal Services
Councillor & Managerial Support
Meeting Services
Electoral Services

#### **4.5 Powers of the Portfolio Holder – Finance**

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:

Finance Management
Financial Strategy
Audit
Insurance & Risk Management
Asset Management

#### **4.6 Powers of the Portfolio Holder - Housing**

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:

##### **Housing**

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

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

- 4.6.1 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 4.6.2 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 4.6.3 Agreeing to demand less than the maximum amount of discount recoverable on the further disposal of a sold Council dwelling.

4.4.4 4.6.4 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.

#### 4.7 **Powers of the Portfolio Holder - 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:

##### **Environment**

Street Cleansing & Street Scene
Parks & Open Spaces
Waste Management
Recycling
Environmental Health
Direct Services Organisations
Travellers
Neighbourhood Wardens
Property Maintenance

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

4.7.1 Accepting on behalf of the Council facilities provided under projects such as CASPAR and approving arrangements for the ongoing maintenance of such facilities.

4.7.2 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.

4.7.3 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.

4.7.4 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.

4.8 **Powers of the Portfolio Holder - Regeneration**

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:

**Regeneration**

Planning Policy & Conservation
Regeneration
Economic Development & Intelligence
Development and Building Control
Markets
Project Development and Co-ordination
Housing Strategy

## **COUNCIL PROCEDURE RULES**

### **(Revised Rule 1.4)**

#### **1.4 Guillotine**

##### **1.4.1 Interruption of the Meeting**

If the business of a Council meeting has not been concluded by 9.30 pm, the Mayor will draw the attention of the meeting to the time and to this Rule.

##### **1.4.2 Motions and Recommendations not dealt with**

In the case of any motions or recommendations on the agenda that have not been dealt with by 9 .30pm

- 1) The Mayor shall put to the vote without further debate any motion or amendment currently under discussion; and
- 2) any items remaining to be considered will be put to the meeting without further discussion and a vote taken on whether the item should be accepted; rejected; referred; deferred or withdrawn.

## **GUIDELINES FOR OPEN GOVERNMENT**

### **(Revised Paragraphs)**

#### **Access to the Cabinet, Council committees and sub-committees:**

4.2.1 Subject to 4.2.2, 4.2.3 and 4.2.4 below the Cabinet, any committee or sub-committee may by a majority of the members then present at any meeting resolve to

4.2.1.1 receive a deputation; and/or

4.2.1.2 permit representatives of any such deputation or any other member of the public to address it upon any item on that meeting's published agenda . Such addresses on any one item shall not without the specific consent of the Committee or other body exceed three minutes in duration. Immediately after such address the Leader, Chair of the committee or sub-committee shall give each of its members an opportunity to question the person who has addressed them provided that the overall period for such questions and any answers shall be kept within a reasonable limit by the Chair.

4.2.2. The procedures set out above shall not apply where a Committee or sub-Committee is required to follow a statutory procedure in relation to an item of business or when to do so would prejudice a duty to act quasi-judicially in relation to any matter.

4.2.3 In respect of Planning Committee the procedures for public speaking in relation to applications are set out in Appendix 3 of the Probity in Planning Protocol, and shall be in place of those set out above.

4.2.4 In respect of meetings of Cabinet the procedures set out above shall be subject to the following restrictions:

4.2.4.1 Persons (other than Councillors) wishing to address Cabinet must register their intention to do so by 12 noon on the day of the meeting.

Registration can be by:

Telephone (01604 837101 or 837355)



In writing to: Solicitor to the Council, The Guildhall, St Giles Square, Northampton NN1 1DE for the attention of Meeting Services Officer, Cabinet

By e-mail to: [mtgsservices@northampton.gov.uk](mailto:mtgsservices@northampton.gov.uk)

By fax to: The Solicitor to the Council for the attention of the Meeting Services Officer, Cabinet (01604 838729)

4.2.4.2 Only thirty minutes in total will be allowed for addresses, so that if speakers each take three minutes no more than ten speakers will be heard. If it appears that this limit may apply speakers will normally be heard in the order in which they registered to speak. However, the Chair of Cabinet may decide to depart from that order in the interests of hearing a greater diversity of views on an item, or hearing views on a greater number of items. The Chair of Cabinet may also decide to allow a greater number of addresses and a greater total time slot subject still to the maximum three minutes per address for such addresses for items of special public interest.

4.2.4.3 Councillors who wish to address Cabinet and who have not registered may at the discretion of the Chair still speak at Cabinet although such addresses will be for a maximum of three minutes unless the Chair exercises his or her discretion to allow longer. The time these addresses take will not count towards the thirty minute period referred to above so as to prejudice any other persons who have registered their wish to speak.

# **CABINET PROCEDURE RULES**

## **1. HOW DOES THE CABINET OPERATE?**

### **1.1 Who may make Executive Decisions?**

The arrangements for the discharge of executive functions are set out in the Executive Arrangements adopted by the Council. In either case, the Arrangements may provide for executive functions to be discharged by:

- 1.1.1 the Cabinet as a whole;
- 1.1.2 a committee of the Cabinet;
- 1.1.3 an individual member of the Cabinet. (The Leaders Scheme of Delegations in Part 8 of the Constitution sets out the arrangements in this regard).
- 1.1.4 an officer;
- 1.1.5 Neighbourhood Partnerships (within any delegated authority)
- 1.1.6 Joint Arrangements; or
- 1.1.7 another Local Authority.

### **1.2 Sub-delegation of Executive Functions**

- 1.2.1 Where the Cabinet, any committee of the Cabinet or an individual member of the Cabinet may be responsible for an executive function, they may delegate further to an Area Partnership, by Joint Arrangements or to an officer.
- 1.2.2 Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **1.3 Conflicts of Interest**

- 1.3.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- 1.3.2 If any member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

- 1.3.3 If the exercise of an executive function has been delegated to any committee of the Cabinet, an individual member or an officer, and a conflict of interest arises, 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 Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.4 Cabinet meetings - when and where?**

The Cabinet will meet at times to be agreed by the Leader. The Cabinet shall meet at the Council's principal offices or another location to be agreed by the Leader.

#### **1.5 Public or private meetings of the Cabinet?**

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings.

#### **1.6 Quorum**

- (a) The quorum for a meeting of the Cabinet, shall be one quarter of the total number of members of the Cabinet (including the Leader), or three including the Leader, whichever is the larger.
- (b) The quorum for a meeting of a Committee of the Cabinet shall be one quarter of the total number of Members of the Committee or two, whichever is the larger.

#### **1.7 How are decisions to be taken by the Cabinet?**

- 1.7.1 Executive decisions which fall to be taken by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.
- 1.7.2 If executive decisions are to be taken by a committee of the Cabinet the same rules shall apply as those applying to the Cabinet as a whole.

### **2. HOW ARE CABINET MEETINGS CONDUCTED?**

#### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

## **2.2 Who may attend?**

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

## **2.3 What business?**

At each meeting of the Cabinet the following business will be conducted:

- 2.3.1 consideration of the minutes of the last meeting;
- 2.3.2 declarations of interest, if any;
- 2.3.3 matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- 2.3.4 consideration of reports from Overview and Scrutiny Committees; and
- 2.3.5 matters set out in the agenda for the meeting, which shall indicate which involve Key Decisions and which do not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

## **2.4 Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework should, if appropriate, contain details of the nature and extent of any consultation with stakeholders and Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.5 Who can put items on the Cabinet agenda?**

- 2.5.1 The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

- 2.5.2 Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 2.5.3 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny Committees.
- 2.5.4 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

### **3. OVERVIEW & SCRUTINY**

In respect of Call-In, Reports, Reviews and Recommendations from the Overview and Scrutiny Committee the Cabinet shall comply or procure compliance with the relevant provisions of the Overview and Scrutiny Procedure Rules relevant thereto.

### **4. CABINET COMMITTEES**

- 4.1 The Cabinet may appoint Committees from among their membership either as standing committees or on an ad hoc basis to deal with specific issues.
- 4.2 Cabinet may appoint the Chair to a Cabinet Committee or leave it to the Committee to appoint their own Chair.
- 4.3 Cabinet Committees may invite non-Cabinet Councillors to participate in their discussions, but without voting rights.
- 4.4 It will be for Cabinet to specify the extent of a Cabinet Committee's powers. The Committee may be required to report back to Cabinet or may be authorised to make executive decisions (including key decisions).

# **OVERVIEW AND SCRUTINY PROCEDURE RULES**

## **1. WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES?**

The Council will have the Overview and Scrutiny Committees as set out in Article 6.

## **2. WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

All Councillors except members of the Executive may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

## **3. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEE**

The Overview and Scrutiny Committee shall meet on a meetings cycle for each year. In addition, other meetings may be called from time to time as and when appropriate. Such a meeting may be called by the chair of the Committee, by any 2 members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

## **4. QUORUM**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

## **5. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?**

The appointment of Chairs will comply with the general provisions as to Chairs set out in the Council Procedure Rules.

## **6. PROTOCOLS**

The Overview and Scrutiny Committees will abide by and apply those Protocols relevant to Committee's work and contained in Part 5 of this Constitution.

## **7. WORK PROGRAMME**

The Overview and Scrutiny Committees will be responsible for setting their own work programmes and in doing so they shall take into account wishes of members on the Committee who are not members

of the largest political group on the Council, and the wishes of Cabinet. Requests from Elected Members and/or the public will also be taken into account, if appropriate.

## **8. AGENDA ITEMS AND REFERENCES FROM CABINET**

Any member of an Overview and Scrutiny Committee shall be entitled to give formal notice giving the reasons therefor to the Proper Officer that he/she wishes an item relevant to the functions of the Committee to be included on the agenda for the next available meeting of such Committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

An Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council or the Cabinet. Any such request shall be directed to relevant Overview and Scrutiny Committee (or if there is doubt as to which is the relevant committee to the Overview and Scrutiny Management Committee for determination of that question and onward referral of the request). The relevant Overview and Scrutiny Committee shall report their findings and any recommendations back to Cabinet and/or the Council as the case may be. The Council and/or the Cabinet shall consider any report of the Overview and Scrutiny Committee as soon as possible thereafter.

## **9. POLICY REVIEW AND DEVELOPMENT**

- 9.1** The role of the Overview and Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- 9.2** In relation to the development of other matters not forming part of the Council's Policy and Budget framework, the Overview and Scrutiny Committees may make proposals to the Cabinet if they see fit.
- 9.3** Subject to the relevant budgetary constraints the Overview and Scrutiny Committees may hold enquiries and investigate the available budgetary options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may, subject to such budgetary constraints, go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **10. REPORTS, RECOMMENDATIONS AND REVIEWS FROM THE OVERVIEW AND SCRUTINY COMMITTEES**

- 10.1** Once they have formed recommendations on proposals for review or development, an Overview and Scrutiny committee will prepare a formal report with any recommendations and it will be submitted through the Chair for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework). They may nominate one or two members to address the Cabinet thereon.
- 10.2** If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or, the Cabinet as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet (as the case may be) with the majority report.
- 10.3** The Council or the Cabinet, as the case may be, shall consider reviews and any recommendations or reports of the Overview and Scrutiny Committee as soon as practicable thereafter and determine whether to accept some or all of them. Having considered them they should determine the effect of their decision(s); where recommendations are rejected reasons should be provided, and where accepted named officers (where appropriate) should be instructed to implement them. The Cabinet should provide a written response from the Leader or relevant Portfolio Holder (who may instruct an appropriate officer to make the response on their behalf) to the relevant Overview and Scrutiny Committee explaining the outcome of the recommendations and any effect on their decisions.

## **11. MAKING SURE THAT SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET**

- 11.1** The agenda for the Cabinet meetings shall include an item entitled "Issues arising from Scrutiny". Any reports of the Overview and Scrutiny Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny Committee completing its report/recommendations.
- 11.2** Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its report for consideration by the Cabinet or the Council depending upon whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the report is referred to Council, a copy will also be served on the Leader with notice that the matter is to



be referred to Council. The Cabinet will have 4 weeks in which to respond to such Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on such a matter which would impact on the Budget and Policy framework, it shall also consider the response of the Cabinet to the proposals.

## **12. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- 12.1** In addition to their rights as Councillors, members of an Overview and Scrutiny Committee have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- 12.2** Nothing in these Rules prevents more detailed liaison between the Cabinet, and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

## **13. COUNCILLORS AND OFFICERS GIVING ACCOUNT**

- 13.1** The Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions save that, as provided by Article 6, Overview and Scrutiny Committees shall not scrutinize individual decisions of other committees of the Council, particularly in respect of development control, licensing, registration, consents and other particular matters other than within the general context of any wider policy review and shall not act as an appeal forum in respect of any such individual decisions. As well as reviewing documentation, in fulfilling the scrutiny role, an Overview and Scrutiny Committee may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain:

13.1.1 any particular decision or series of decisions;

13.1.2 the extent to which the actions taken implement Council policy;

and it is the duty of those persons to attend if so required.

- 13.2** Where any Councillor or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving reasonable notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee.

Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- 13.3** Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

#### **14. ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee may invite people other than those people referred to in Rule 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

#### **15. CALL-IN**

- 15.1** When a decision is made by the Cabinet, a Committee of the Cabinet or an individual Cabinet Member or a Key Decision is made by an officer with delegated authority from the Cabinet or Council or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three days of being made. The Chairs of all the Overview and Scrutiny Committees will be sent a copy of the records of all such decisions within the same timescale.

- 15.2** That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three working days after the publication of the decision, unless an Overview and Scrutiny Committees exercise the right to call-in within that period.

- 15.3** During that period, the Proper Officer shall call-in a decision for scrutiny by the Committee if so requested by the Chair or formally by any two members of the Council, and shall then notify the decision-taker of the call-in. The Proper Officer shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair or in the absence of the Chair the Deputy-Chair of the Committee, and in any case such meeting shall be held within seven working days of the decision to call-in although, in the exceptional circumstances the period may be extended to twenty-one days at the discretion of both the Chief Executive and the Monitoring Officer (such decision to extend the time limit and the reason for it to be formally recorded in writing). The member or

members requesting such call-in shall have the right to speak at such meeting, as shall the Leader and relevant Portfolio Holder or Holders.

- 15.4** If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or, in the case of decisions outside the Council's Budget and Policy Framework, refer the matter to full Council as provided in the Budget and Policy Framework Procedure Rules. If referred to the decision making person or body they shall then reconsider as soon as reasonably practicable amending the decision or not, before adopting a final decision, which shall not then be subject to further call-in (provided that if such decision shall negate the previous decision or propose a significantly or entirely different final alternative course of action to that previously considered by the decision taker and Overview and Scrutiny Committee, such further action shall, notwithstanding the foregoing, be capable also of being called in.) In all cases of reference back, the Cabinet (or other decision making person or body) shall formally advise the Overview and Scrutiny Committee of their consideration of such referral and their final decision.
- 15.5** If following the call-in of a decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny meeting, or the expiry of the period in which the Overview and Scrutiny Committee should have met, whichever is the earlier.
- 15.6** If the matter was referred to full Council as provided herein and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it will have no power to alter the decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget.

Unless that is the case the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making person or body shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider as soon as possible thereafter. Where a decision was made by an individual, the individual will reconsider within three working days of the Council request.

**15.7** If the Council does not meet, or if it does but does not refer the decision back to the decision making person or body, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

**15.8** In the event that an executive decision has been taken by a Neighbourhood Partnership (having delegated power so to do) then the right of call-in shall extend to any other Neighbourhood Partnership which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny Committee for consideration in accordance with these provisions. A Neighbourhood Partnership may only request the Proper Officer to call-in the decision of another Neighbourhood Partnership if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised in accordance with 15.3 above.

#### **15.9 EXCEPTIONS**

In order to ensure that a call-in is not abused, nor causes unreasonable delay, a formal request from two members of the Council to the Proper Officer in writing giving the reasons for such request is required for a decision to be called in. (except in the case of a call in by the Chair of an Overview and Scrutiny Committee or a call in under 15.8 above).

#### **15.10 CALL-IN AND URGENCY**

The call-in procedure set out above shall **not** apply where the decision being taken is **urgent**. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. 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. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

**15.11** The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report may be submitted to Council, with any proposals for review if necessary.

## **16. THE PARTY WHIP**

When considering any matter in respect of which a member of an Overview and Scrutiny Committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **17. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

**17.1** The Overview and Scrutiny Committees shall consider the following business:

17.1.1 minutes of the last meeting;

17.1.2 declarations of interest (including whipping declarations);

17.1.3 consideration of any matter referred to the Committee by way of call-in;

17.1.4 responses of the Cabinet or Council to reports of the Overview and Scrutiny Committee; and

17.1.5 the business otherwise set out on the agenda for the meeting.

**17.2** Where an Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to contribute at Committee meetings, which are to be conducted in accordance with the following principles:

17.2.1 that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

17.2.2 that those assisting the Committee by giving evidence or otherwise contributing be treated with respect and courtesy; and

17.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

**17.3** Following any investigation or review, the Committee shall prepare a report of any recommendations or conclusions in the name of the Chair, for submission to the Cabinet and Council as appropriate and shall make its report and findings public.

## **18. PANELS OR “TASK AND FINISH” GROUPS**

- 18.1 An Overview and Scrutiny Committee may set up panels (which may be referred to as “task and finish” groups) to assist the Committee in carrying out reviews. Such panels will be given a brief for the work they are required to do, and will be wound up once the task is completed and they have reported back to the Committee.
- 18.2 Councillors who are not members of the Overview and Scrutiny Committee may and normally will be approached to sit on the panels. The Overview and Scrutiny Committee may specify who will chair a panel, or may leave the panel to select their own chair.
- 18.3 The provisions of 17.2 above shall apply with the necessary modifications to the meetings of such panels

## **19. PRIVATE MATTERS**

Where reports, documents or advice have been dealt with by the Cabinet or a Committee in private pursuant to Section 100 (1) of the Local Government Act 1972 they shall, in the absence of prior consent from the Cabinet or Committee concerned, be dealt with in like manner by the Overview and Scrutiny Committee considering the same.

## 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 Protocol. This Protocol accompanies the Leader's Scheme of Delegations but does not formally form part of it. However, the Protocol will be annexed to 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 current Leader's Scheme of Delegations Cabinet Members will **not** be able to make Key Decisions. However, the Leader can determine to change this and bring Key decisions within the Scope of the Leader's Scheme of Delegations. 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 only recently (2006) started to employ 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. Meeting 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 Chief Executive; 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.

## **2. DELEGATED DECISIONS**

Once the need for 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, the Leader or individual Cabinet Member. **If in doubt seek legal assistance.**

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**

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 Council's website. Meeting Services will need to be contacted in relation to this.
- All Councillors will be notified by Meeting 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 Meeting 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.

## **2.2 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 2** will be completed and posted on the Council's website. A hard copy of the decision notice will be sent to the Chairs of the Overview and Scrutiny Committee by Meeting Services, together with electronic copies of the decision notice to all Members of the Overview & Scrutiny Committees. The decision notice will clearly specify the date the decision was made, the date it was posted on the Council's website 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.

### **2.3 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.

### **2.4 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.

### **2.5 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 practical for normal procedures to be followed.

In these cases the decision can still be made so long as the procedures in clause 15.10 of the Overview and Scrutiny Procedure Rules (in Part 4 of the Council's Constitution) are complied with. 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”.

This will exempt the decision from call-in so that the decision will take effect as soon as it is made.

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. Normally a key decision can only be made if it is on the Forward Plan. Where the Key Decision is not on the Forward Plan, then the urgency provisions and the special urgency provisions will apply (as outlined in clauses 15 and 16 of the Access to Information Procedure Rules in Part 4 of the Council’s Constitution.

These rules provide for decisions to be made and implemented immediately so long as notice requirements are complied with and the Chair of the relevant Overview and Scrutiny Committee 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 Leader’s Scheme of Delegations?*
- *Is the decision one you would rather or the Leader has requested be referred to Cabinet?*
- *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 –  
Meeting Services ext 7101