

Part 3 of the Constitution – Responsibility for Functions

3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

In accordance with the provisions of Article 6, the Cabinet Leader has appointed 9 Councillors to be members of the Cabinet.

The names of all members of the Cabinet, together with the portfolio of functions for which they are responsible, are as follows:

Portfolio	Name	Areas of Oversight	Council priority
Council Leader (Cabinet Chair)	Cllr D Baines (Leader)	<ul style="list-style-type: none"> • Overall Council Strategy, Policy Determination and Budget Strategy • City Region • Communications & Media 	
Strategic Transport	Cllr S Gomez-Aspron (Deputy Leader)	<ul style="list-style-type: none"> • Transport Planning • Transport Policy • Transport Strategy • Highways Delivery • Engineering Services • Localities 	<p><u>Priority 5</u></p> <p>Create a green, thriving and vibrant place to be proud of</p>
Children & Young People	Cllr N Charlton (Statutory Lead)	<ul style="list-style-type: none"> • Children’s Social Care • Children’s Safeguarding • Vulnerable Pupils • Youth Justice • Nurseries & Schools • Post 16 Education 	<p><u>Priority 1</u></p> <p>Ensure children and young people have a positive start in life</p>
Integrated Health & Care	Cllr M Quinn	<ul style="list-style-type: none"> • Adult Social Care • H&SC Integration 	<p><u>Priority 2</u></p> <p>Promote good health, independence and care across our communities</p>
Economy, Business and Skills	Cllr K Groucutt	<ul style="list-style-type: none"> • Post 16 Education (adult) • Employment & Skills • Business engagement and support • Night-time economy • Regulatory Services • Inclusive Growth 	<p><u>Priority 1</u></p> <p>Ensure children and young people have a positive start in life</p> <p><u>Priority 3</u></p> <p>Create safe and strong communities for our residents</p> <p><u>Priority 4</u></p> <p>Support a strong, diverse and well-connected local</p>

			economy
Wellbeing, Culture and Heritage	Cllr A Burns	<ul style="list-style-type: none"> • Recreation • Libraries • Arts, Culture & Heritage • Public Health • Voluntary sector 	<p><u>Priority 2</u> Promote good health, independence and care across our communities</p> <p><u>Priority 3</u> Create safe and strong communities for our residents</p> <p><u>Priority 5</u> Create a green, thriving and vibrant place to be proud of</p>
Regeneration and Planning	Cllr R McCauley	<ul style="list-style-type: none"> • Planning • Local Plan • Town Centre Developments • Town Deal Board • Regeneration • Assets & Buildings • Housing 	<p><u>Priority 3</u> Create safe and strong communities for our residents</p> <p><u>Priority 4</u> Support a strong, diverse and well-connected local economy</p> <p><u>Priority 5</u> Create a green, thriving and vibrant place to be proud of</p>
Environmental Services and Climate Change	Cllr A Bowden	<ul style="list-style-type: none"> • Climate Change • Recycling & Waste • Traded Services • Parks & Open Spaces • Enforcement of Waste and Fly-tipping 	<p><u>Priority 3</u> Create safe and strong communities for our residents</p> <p><u>Priority 4</u> Support a strong, diverse and well-connected local</p>

			economy <u>Priority 5</u> Create a green, thriving and vibrant place to be proud of
Corporate Services	Cllr M Bond	<ul style="list-style-type: none"> • Finance • Revenue & Benefits • Legal & Democratic • HR • Performance & Policy • IT & Digital • OD • Commercialisation • Customer Services 	<u>Priority 6</u> Be a modern, efficient, and effective council
Safer Communities	Cllr M Uddin	<ul style="list-style-type: none"> • Community Safety (including CONTEST Prevent and Channel) • Crime Prevention 	<u>Priority 3</u> Create safe and strong communities for our residents

The Cabinet Leader has not, yet, delegated any powers to the individual Cabinet Councillors, but he has delegated powers to Executive Directors as set out in the Executive Scheme of Delegation below.

To the extent that an executive function is not delegated to a Executive Director, it shall be the responsibility of the full Cabinet.

EXECUTIVE SCHEME OF DELEGATION

1. INTRODUCTION

1.1 This Scheme delegates to the Chief Executive and Executive Leadership Team all the powers and duties of the Council necessary for the discharge of the Council's executive functions carried out within his/her directorate/department.

1.2 For the purposes of this Scheme:

- (a) "The Cabinet Leader" shall be taken to mean the leader of the Council as elected by the Council.
- (b) "Cabinet Councillor" shall be taken to mean a Councillor appointed as such by the Cabinet Leader.

- (c) “Portfolio” shall be taken to mean an area of Council activity allocated by the Cabinet Leader to a Cabinet Councillor.
- (d) “Proper Officer” shall be taken to mean the officer appointed by the Council for the purpose of this Scheme or in default of such appointment, or in the absence of the appropriate Executive Director, the Chief Executive of the Council.
- (e) “Executive Leadership Team”, means the Chief Executive; Executive Director Corporate Services; Executive Director Place Services; and Executive Director People (Adult Social Care, Children & Young People and Public Health)
- (f) “Statutory Officer”, for the purposes of this Scheme, means
 - (i) the Monitoring Officer in respect of any proposal, decision or omission which has given rise, or is likely to give rise, to a breach of law or of any statutory code of practice or maladministration;
 - (ii) the Chief Finance Officer in respect of the proper administration of the Council’s financial affairs.
- (g) “Head of Profession” means
 - (i) Head of People Management in respect of all personnel and human resources issues;
 - (ii) Executive Director Corporate Services in respect of all health and safety issues;
 - (iii) Executive Director Corporate Services in respect of all contracting and procurement issues relating to goods and services;
 - (iv) Assistant Director - Property & Economy in respect of all land and property issues.

2. OVERALL LIMITATIONS

2.1 This Scheme does not delegate to Officers:

- (a) any matter reserved by law or by the Constitution to the Council, or to a Committee or Sub-Committee of the Council;
- (b) any matter which by law may not be delegated to an Officer;
- (c) any key decision as defined by Article 13.03 of the Constitution.

2.2 Officers may only exercise delegated powers in accordance with

- (a) the policy framework as approved by the Council;
- (b) the budget approved by the Council;
- (c) the Council’s Procedure Rules, Contract Procedure Rules and Financial Procedure Rules of the Council;

- (d) any statutory restrictions, statutory guidance or statutory code of practice.
- 2.3 In exercising delegated powers, Officers shall act only within the revenue and capital budgets for the relevant service as approved by the Council, subject to any variation thereof which is permitted by the Council's Financial Procedure Rules.
- 2.4 Sub-delegation:
- (a) This Scheme includes the power for Officers further to delegate any function which has been delegated to them under this Scheme to another Officer or to other Officers. Every such sub-delegation shall be in writing, setting out the terms and conditions upon which that function is to be performed and accountability for the performance of the sub-delegated function. The Officer making such sub-delegation shall record the sub-delegation in a register maintained for the purpose by the Proper Officer.
 - (b) Officers shall devolve responsibilities for service delivery and management to the nearest practicable point to the service user.
- 2.5 In exercising any delegated function, Officers shall have regard to the requirement to comply with the restrictions set out in paragraph 2.2 above and shall be responsible for undertaking any appropriate consultation with the Council's Statutory Officers before making any decision.
- 2.6 In exercising any delegated function, Officers shall have regard to any professional standards or operational policies of the Council and shall be responsible for undertaking any appropriate consultation with the Head or Heads of Profession relevant to the matter under consideration.
- 2.7 There are two types of decisions which may be taken by the Executive Leadership Team and Statutory Officers under this scheme of delegation:
- (a) Executive decisions
 - (b) Operational decisions

3. EXECUTIVE DECISIONS

- 3.1 "Executive Decisions" shall be those decisions which do not fall within the definition of Operational Decisions as set out in paragraph 4 hereof and are not key decisions as defined in Article 13.03 of the Constitution.
- 3.2 Consultation
- (a) Before taking any executive decision, the Officer shall prepare a report, setting out
 - (i) the Officer preparing to take the decision;
 - (ii) the issue to be decided;
 - (iii) any restriction upon the publication of the report as if the decision were a decision falling to be made by a Committee or Sub-Committee of the Council in accordance with Sections 100 and 100A to 100K of the Local Government Act 1972;

- (iv) any facts upon which any decision must be based;
 - (v) any legislative requirements;
 - (vi) any Council policy relating to the issue;
 - (vii) any relevant national or regional guidance;
 - (viii) the alternative options available to the Officer;
 - (ix) the staffing and financial implications of the issue;
 - (x) any consultations undertaken; the view of any consultees;
 - (xi) any implications for any other areas of the Council's activities;
 - (xii) the Cabinet portfolio which the issue falls within;
 - (xiii) the Officer's proposed decision and the reasons supporting the Officer's proposed decision.
- (b) The Officer shall then send a copy of the report to:
- (i) the relevant Cabinet Councillor(s) whose Portfolio includes the matter under consideration, or if he/she is unavailable through illness or holiday, or any other reason, or has a personal and prejudicial interest in the matter under consideration, to the Cabinet Leader or such other Cabinet Councillor as he/she may nominate;
 - (ii) all the Statutory Officers;
 - (iii) where the matter affects the responsibilities of one or more Head(s) of Profession, the Head(s) of Profession so affected;
 - (iv) any other Chief Officer who is responsible for services which may be affected by the proposed decision.

3.3 Objection

- (a) The relevant Cabinet Councillor or any of the other consultees may object to the report within 5 working days of receiving the same by notifying the Officer of his/her objection and requesting that the matter be referred to the Cabinet for determination.
- (b) If neither the Cabinet Councillor nor any of the consultees object to the decision, he/she shall return the report to the Officer duly signed within 5 working days of receiving the same.

3.4 Determination

- (a) Where no objection within the timescale outlined above has been received, the Officer may proceed to make his/her final decision as outlined in the report.

- (b) Where an objectee has requested that the report be referred to the Cabinet, the Officer shall no longer have the power to take the final decision in respect thereof. The Monitoring Officer shall include the report for decision to the next convenient meeting of the Cabinet and the Officer's proposed decision shall form his/her recommendation to the Cabinet.
- (c) An Officer may determine that an issue which falls to him/her to determine as an executive decision is of such importance that it is inappropriate for the matter to be decided by an Officer and accordingly, he/she may report the matter to the Cabinet for decision.

3.5 Urgent Decisions

Where an Officer is of the opinion that an executive decision for which he/she is responsible should be made urgently in order to prevent or reduce the risk of damage to persons or property, or to the interests of the Council, and that the urgency of the decision is such that it is not practicable to complete the executive decision-making process set out above, the Officer shall

- (a) use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full executive decision-making process been followed; and
- (b) have the full power to take that executive decision, notwithstanding that the full procedure has not been followed;
- (c) as soon as practicable after taking the decision, ensure that a report set out as in paragraph 3.2(a) is prepared, setting out also the reasons for the urgency and the final decision which has been taken, and that report shall go to the next convenient meeting of the Cabinet for information.

3.6 Recording of Executive Decisions

- (a) Upon making an Executive Decision, the Officer shall provide the Monitoring Officer with a written statement of his/her decision, signed by the Officer within 2 working days of the date of his decision.
- (b) The Monitoring Officer shall publish all executive decisions within 5 working days of the date of the decision and shall ensure that a record of these decisions, including the report upon which the Executive Decision was made and, subject to any requirement for confidentiality, is published and posted on the Members' Noticeboard and is available for public inspection during all normal office hours, and that the public shall have a right to copy, or to be provided with a copy, of any part of that record upon payment of a reasonable copying and administrative charge.

3.7 Call-in Mechanism

- (a) Where an Executive Decision is taken by a Chief Officer and it involves expenditure or reductions in service over a value of £500,000, then that decision is only a provisional decision other than where the specific expenditure or reduction has previously been approved by the Council.

- (b) This provisional decision will be notified to all Members of the Council within 5 working days of the provisional decision having been made.
- (c) That provisional decision may then be called in, in accordance with the provisions of the Overview and Scrutiny Procedure Rules.

3.8 Accountability

Officers are accountable to the Council for any Executive Decision which they make and may be required to report to, and to attend and answer questions from, an Overview and Scrutiny Committee in respect of any Executive Decision which they make.

4. **OPERATIONAL DECISIONS**

4.1 A decision shall not comprise an Operational Decision if

- (a) it is a Strategic or Reserved Decision;
- (b) it is not within an approved budget;
- (c) it is in conflict with the Policy Framework approved by the Council;
- (d) it raises new issues of policy;
- (e) it requires any of the following:
 - (i) *Staff*

it will result in any staff being displaced or TUPE transferred
 - (ii) *Land*

it requires the acquisition or disposal of any land or interest in land, unless such acquisition or disposal falls within the specific delegations of the Assistant Director, Property & Economy set out below:

 1. To approve any property transaction or any compensation, damages claim or disposal of surplus, obsolete or damaged property involving less than £100,000 in capital or rent of less than £20,000 p.a.
 2. To approve:
 - (a) the purchase of property affected by Council resolutions in respect of Clearance Areas, Compulsory Purchase Orders
 - (b) acquisition and compensation comprised in valuers' reports in respect of properties within Compulsory Purchase, Closing and Demolition Orders
 3. To grant licences or leases for a period not exceeding 18 months.

4. To approve the disposal of ground rents and rent charges up to a capital value of £25,000.

(iii) *Finance*

It requires a virement which is contrary to that allowed within the scheme of virement as included in the Financial Procedure Rules

(iv) *Tenders*

It required the award of a contract with the value of (or estimated value) of £200,000 or above, whether it involves an exemption from Contract Procedure Rules or not.

- (f) it comprises or includes the making, approval or publication of a draft order, scheme or plan which may require either directly, or in the event of objection, the approval of the Secretary of State;
- (g) it requires the passage of local legislation or the adoption by the Council of national legislation;
- (h) it proposes the payment of an ex-gratia payment or payment of a sum in settlement of a complaint against the Council;
- (i) is in response to an Ombudsman's finding of maladministration with injustice;
- (j) it proposes the write-off of a debt to the Council of more than £5,000;
- (k) it proposes an alteration in the charges which the Council makes for any of its services unless
 - (i) the alteration is as a result of a charge which has been fixed by Government without discretion as to implementation;
 - (ii) the charge is estimated to generate annual income not exceeding £25,000;
- (l) on consultation under paragraph 4.2, it raises an objection from any of the Statutory Officers or a Head of Profession;
- (m) the Officer is of the opinion that it should be treated as an Executive Decision;
- (n) it relates to the acceptance of, or application for, grant funding for a sum in excess of £100,000.

4.2 Consultation and Publicity

Officers do not have to prepare or publish a formal written report in respect of an Operational Decision, but are responsible for ensuring that consultation where appropriate is undertaken with the Statutory Officers, and where the decision involves staffing, with the Head of People Management.

Where the decision proposes the write-off of a debt to the Council, the Chief Finance Officer must be consulted and the procedure must be undertaken in accordance with the Financial Procedure Rules.

4.3 Referral

Whilst this Scheme of Delegation is designed to encourage Officers to take responsibility for Operational Decisions, an Officer may decide that a particular issue is such that it should be treated as an Executive Decision, in which case the procedure for executive decisions shall apply.

4.4 Recording and Reporting of Operational Decisions

There is no requirement to maintain a record of Operational Decisions for the purpose of Councillor or public access, or to report Operational Decisions to a Committee or Sub-Committee, but Officers are responsible for retaining a record of Operational Decisions which they take and the reasons for such decisions sufficient for audit and evidential purposes (against the eventuality of evidence being required for Judicial Review, Employment Tribunal, Ombudsman, External Audit, Ofsted or other proceedings or investigation), and for ensuring that all those who need to know are informed promptly of the decision.

4.5 Accountability

Officers are accountable to the Council for any Operational Decisions which they make and may be required to report to, and attend and answer questions from, a Scrutiny Committee in respect of any Operational Decisions which they make.