

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 17/09/03	<b>Meeting Name:</b> Council Assembly
<b>Report title:</b>		Individual Decision Making	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Standards Committee	

## RECOMMENDATIONS

That Council Assembly agrees changes to the Constitution to provide for individual decision-making, in line with the recommendations from Standards Committee, set out in paragraphs 21 – 25, and specifically to agree:

1. the delegation of executive functions as set out in option 3 of paragraph 21 of this report.
2. the scheme of delegation set out in option 3 of paragraph 22 of this report.
3. the recommendations of Standards Committee as to the areas of individual decision-making set out in paragraphs 23 and 24 of this report.
4. the appropriate financial ranges, for individual decision making, in any of the areas set out in the table at paragraph 24.

## NOTES:

### **Paragraph 24 (a) Approving Grants**

Standards Committee asked for further information on this issue. This is set out in an addendum report from Head of Social Inclusion (Appendix 10). Standards Committee also recommended an upper financial threshold for individual decisions above which the decision would either be taken by the portfolio holder in conjunction with the Executive Member for Resources, or by the Full Executive.

The Head of Social Inclusion recommended that financial limits be:

- Over £25,000 decision by individual member
- Under £25,000 decision by Chief Officer

### **Paragraph 24 (b) Approving Debt Write Offs**

Currently all debt write offs are delegated to officers, although write-offs in excess of £50,000 per case are subject to the key decisions process. Standards Committee recommended that an individual executive member could take debt write-offs decisions above £5000.

Standards Committee recommended an upper financial threshold for individual decisions above which the decision would either be taken by the portfolio holder in conjunction with the Executive Member for Resources, or by the Full Executive.

The Chief Finance Officer recommends that the upper limit for debt write-offs could be that debt write-offs over £50,000 be taken by the relevant Executive Member, in conjunction with the Executive Member for Resources.

5. the recommendations of Standards Committee set out in paragraph 25 of this report, relating to:
  - Arrangements where the portfolio holder is unavailable
  - Arrangements when the decision affects more than one portfolio
  - Cross-cutting issues
  - Controversial Decisions
  - Referral to Full Executive
  - Reporting of Decisions
6. to increase the time frame within which decisions on executive functions can be Called-In from 3 to 5 days (see row (h) of table at paragraph 25)
7. notes the responses to the Overview & Scrutiny Committee's (OSC) recommendations in respect of the Forward Plan (see paragraphs 28).
8. recommends that officers be authorised to make the necessary consequential amendments to the constitution's procedure rules to incorporate the implementation of the above.

## **BACKGROUND INFORMATION**

9. The issue of Individual Decision Making was initially raised at Overview and Scrutiny Committee on 16th April 2003.
10. The Executive considered the issue on the 20<sup>th</sup> May 2003 and 29<sup>th</sup> July 2003. The recommendations of the Executive are set out in the Key Issues for Consideration section of this report (see paragraphs 21-25).
11. Overview & Scrutiny Committee (OSC) received a briefing on individual decision-making in June and identified additional information they required. They subsequently considered the report at the meeting on the 7<sup>th</sup> July 2003. The recommendations of the OSC are set out in the Key Issues for Consideration section of this report (see paragraphs 21-25).
12. The Standards Committee considered the report on the 2<sup>nd</sup> September 2003. The recommendations of the Standards Committee are set out in the Key Issues for Consideration section of this report (see paragraphs 21-25).
13. The Local Government Act 2000 allows arrangements for executive functions to be discharged by:
  - The executive as a whole
  - A committee of the executive
  - An individual member of the executive
  - An officer
  - An area committee
  - Joint arrangements
  - Another local authority
14. The arrangements for discharging executive functions may either be adopted by the Council and set out in the constitution or left to the Leader to decide in which case they must be included in the scheme of delegations.

15. On 29<sup>th</sup> May 2002 the Council agreed the new constitution adopting the Leader and Cabinet model of executive. At that time it was decided that executive members would not have individual decision-making powers.
16. The introduction of individual decision-making would change the way the executive takes decisions, rather than giving any new powers. It could have a number of beneficial effects, for example:
  - Speed up decision making, as decisions would not be tied to the meeting timetable
  - Increased transparency and accountability of decision taking
  - Shorten Executive meetings
  - Reduce number of Executive meetings
17. Some principles of Individual Decision Making are that it should:
  - Not erode officer delegations
  - Not include human resources responsibility for individual members of staff
  - Not include geographical allocation of resources e.g. Environmental Improvement Programme (EIP)
18. Other boroughs have adopted various approaches to decision-making powers for individual Members:
  - The report 'Evaluating Local Governance - Survey Findings for Office of the Deputy Prime Minister (ODPM) Advisory Group' was published on 28 November 2002 and reported the results of a survey carried out in the summer of 2002. It showed that, of the councils operating the Leader and Cabinet model, nearly half allowed individual members of the executive to discharge functions of the executive.
  - Three of the London Boroughs with no overall control have opted for individual decision making powers i.e. Harrow, Havering and Hillingdon.
  - Harrow limits individual decision taking to non-key decisions only. See appendix 6 for an extract from Harrow's Constitution, Responsibility for Functions.
  - Havering and Hillingdon also allow some key-decisions to be taken individually. About 40% of executive decisions are taken individually in Hillingdon and this is about to be reviewed to increase individual decision-making. See appendix 7 for an extract from Hillingdon's Constitution, Responsibility for Functions.
  - Kensington & Chelsea allow most decisions, about 88%, to be taken individually with only major policy plans, Compulsory Purchase Orders, crosscutting issues and decisions over certain financial thresholds going to Full Cabinet. See appendix 8 for an extract from K&C's Constitution, Responsibility for Functions.
19. An analysis of whether Southwark Executive's decisions, taken over four months, could have been taken by individual executive members under the Hillingdon and Kensington & Chelsea constitutions is attached at Appendix 5. Please note this analysis was based on a quick review of the minutes, not the detailed reports, so is indicative only. It should also be noted that some items, which could constitutionally be made by individuals, could be referred to a full meeting of the Executive if of a particularly controversial nature.
20. The timetable for agreeing constitutional changes necessary to implement Individual Decision Making is set out below. A report on modernising Contract Standing Orders is also coming forward, however, as additional work is required on this issue these reports will proceed separately.

Table 1: Timetable for agreeing Individual Decision Making

Meeting	Date	Action
Executive	20 <sup>th</sup> May 2003	To consider an initial view on the proposals for Individual Decision Making
OSC Briefing	9 <sup>th</sup> June	Briefing on issues
Overview and Scrutiny Committee	7 <sup>th</sup> July 2003	To comment on the proposed changes with particular regard to the impact on Overview and Scrutiny
Executive	29th July 2003	To consider the proposed changes and make recommendations to Standards & Council Assembly.
Standards Committee	2 <sup>nd</sup> September 2003	To consider proposed changes and make recommendations to Council Assembly.
Council Assembly (Constitutional Meeting)	17 <sup>th</sup> September 2003	To consider and agree changes to the Constitution.

**KEY ISSUES FOR CONSIDERATION****Delegation of executive functions**

21. The options for setting delegations are set out in the table below:

Table 2: Options for delegation of executive functions

Option No.	Option	Other local authorities	Constitutional Changes Required	Views of OSC & Executive	Recommendation of Standards Committee
1	The Leader sets the delegations. This allows a more flexible system than if delegations have to be adopted by Council Assembly. It would however involve a change to the current constitution, which currently requires the scheme of delegation to be adopted by Council Assembly.	Hillingdon Kensington & Chelsea Westminster Newham - Mayor sets the delegations			
2	Council Assembly adopts the scheme of delegation. This would mean any amendment to the scheme of delegations would have to go back to Council Assembly.	Harrow Hammersmith & Fulham		OSC recommended initially following either option 2 or 3, subject to review at Annual Constitutional Council, on the basis that this is a learning process.	
3	Council Assembly sets limitations for delegation to individuals; the Leader then sets the delegations within these limits. This would not be as flexible as option 1 but would mean that the scheme of delegations would not have to go back to Council Assembly for minor amendments.	Camden - follows a variation of option 3 whereby the Council agrees the scheme of delegation at Annual Council, but the Executive may agree changes during the year.	The proposed changes to the constitution in line with this option are shown in: <ul style="list-style-type: none"> <li>Appendix 2, Executive Procedure Rule 1.4</li> <li>Appendix 3, Responsibilities for functions</li> </ul>	Executive on 29 <sup>th</sup> July 2003 supported option 3.	Standards Committee recommended option 3.

## Scheme of Delegations

22. The options for the kind of scheme of delegations are set out in the table below:

Table 3: Options for scheme of delegation

Option No.	Option	Other Local Authorities	Constitutional Changes Required	Views of OSC & Executive	Recommendation of Standards Committee
1	A generic scheme that covers all the Executive Members.	Havering			
2	A separate delegation for each individual member.	Harrow Camden			
3	A combined approach of a generic scheme of delegations with specific lists of responsibilities for each portfolio.	Hillingdon, Kensington & Chelsea Hammersmith & Fulham	See Appendix 3- Responsibilities for Functions	Overview & Scrutiny Committee supported this option  Executive supported this option.	Standards Committee recommended this option.

## The extent of individual decision-making

23. The report has identified three models of individual decision-making, operating in London boroughs. However, these are not discrete and the level, of individual decision-making, could be set at any point on a continuum between these models. The level set could involve financial thresholds, the types of decisions which can be taken individually and whether key-decisions can be taken. Individual decision-making could cover any of the executive functions but key elements of the delegations are set out below. Except for the views noted below the Executive and OSC felt these delegations were appropriate.

Table 4: Proposed key elements of the delegations

Proposed key elements of the delegations		Constitutional Changes Required	Views of OSC & Executive	Recommendation of Standards Committee
a)	Approving alterations to service provision within their portfolio's budget	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC and Executive recommended permitting this type of decision to be taken by individuals.	Standards Committee recommended permitting this type of decision to be taken by individuals.
b)	Approving departmental business plans	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC and Executive recommended permitting this type of decision to be taken by individuals.	Standards Committee recommended permitting this type of decision to be taken by individuals.
c)	Best Value Reviews	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC recommended that this type of decision should not be taken by individuals (but felt that progress reports could).  Executive agreed with OSC's recommendation.	Standards Committee recommended permitting progress reports to be taken by individuals but not final recommendations.
d)	Inspection reports	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC and Executive recommended permitting this type of decision to be taken by individuals.	Standards Committee recommended permitting this type of decision to be taken by individuals.
e)	Approving exemptions to procurement rules subject to legal and EU requirements	See Appendix 3 – (3D – c) Responsibilities for Functions	OSC and Executive recommended permitting this type of decision to be taken by individuals.	Standards Committee recommended permitting this type of decision to be taken by individuals.

Proposed key elements of the delegations		Constitutional Changes Required	Views of OSC & Executive	Recommendation of Standards Committee
f)	Dealing with petitions	See Appendix 3 – (3D – d) Responsibilities for Functions	OSC recommended an additional type of decision:  “Decisions on traffic petitions, which could be made in an open forum where the public can make representations”.  Executive agreed with OSC’s recommendation.	Standards Committee recommended permitting this type of decision to be taken by individuals.  Standards Committee also suggested that the Council Procedure Rules be amended to allow Councillors to present petitions on behalf of residents. Options for this will be brought back to Standards Committee on this issue.
g)	Approving responses to consultations	See Appendix 3 – (3D – d) Responsibilities for Functions	OSC and Executive recommended permitting this type of decision to be taken by individuals.	Standards Committee recommended permitting this type of decision to be taken by individuals.
h)	Responding to O&S Reports		OSC recommended that this type of decision should not be taken by individuals.  Executive agreed with OSC’s recommendation.	Standards Committee recommended that individuals should not take this type of decision.
i)	Decisions within financial limits (these are set out in more detail in Table 5 below:	See Appendix 3 - Responsibilities for Functions		

24. The proposed financial delegations are set out in Table 5 below. Members should note that the lower limit should start just above the upper limit of officer delegations, where applicable. There could also be an upper limit above which decisions would go to an Executive meeting.



The limits could also include intermediate financial limits above which the portfolio holder could take decisions in conjunction with the Executive Member for Resources.

Table 5: Financial Delegations

	Decision	Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Views of OSC & Executive and Officers Comments	Recommendation of Standards Committee
a)	Approving grants	<p>Over £2,500</p> <p>Following the Voluntary Sector Fast Track Review it was decided that decisions on the programmes with a direct link to service needs would be made by individual Members or Chief Officers.</p> <p>In the case of the current Community Support programme, which has a cross cutting corporate set of policy drivers, the funding decisions would be made by the Executive.</p>	Kensington & Chelsea - Over £5,000	See Appendix 3 - Responsibilities for Functions 3C – 9 3D – a	<p>The Executive agreed Option B of the Voluntary Sector Fast Track Review (see 2<sup>nd</sup> column).</p> <p>Environment and Community Support Overview and Scrutiny Sub Committee also recommended this option.</p> <p>The Executive did not make a specific recommendation on the financial threshold, however, advice from the Head of Social Inclusion is that the recommended financial limits be:</p> <ul style="list-style-type: none"> <li>• Over £25,000 decision by individual member</li> <li>• Under £25,000 decision by Chief Officer</li> </ul> <p>The comments of the Head of Social Inclusion are set</p>	<p>Standards Committee recommended permitting this type of decision to be taken by individuals.</p> <p>However they recommended an upper financial threshold for individual decisions above which the decision would either be:</p> <ul style="list-style-type: none"> <li>• The portfolio holder could take decisions in conjunction with the Executive Member for Resources</li> <li>• The decision would go to the Full Executive</li> </ul> <p>They also recommended that reports should indicate any other grants applied for or awarded to the organisation and that the accumulative total of grants to any particular organisation be monitored.</p>

	Decision	Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Views of OSC & Executive and Officers Comments	Recommendation of Standards Committee
					out in Appendix 10.	
b)	Approving debt write-offs		<p>Hillingdon – Over £5,000</p> <p>K&amp;C £10,001 - £100,000 &amp; in conjunction with the Cabinet member for Finance and Property between £100,001 - £250,000</p>	See Appendix 3 - Responsibilities for Functions 3D – a	<p>The Executive recommended financial limits in line with Hillingdon's model.</p> <p>The Chief Finance Officer recommends that the upper limit for debt write-offs could be that debt write-offs over £50,000 be taken by the relevant Executive Member, in conjunction with the Executive Member for Resources.</p>	<p>Standards Committee recommended permitting this type of decision to be taken by individuals and felt the proposed financial threshold of £5000 was appropriate.</p> <p>However they recommended an upper financial threshold for individual decisions above which the decision would either be:</p> <ul style="list-style-type: none"> <li>• The portfolio holder could take decisions in conjunction with the Executive Member for Resources</li> <li>• The decision would go to the Full Executive</li> </ul>

Decision		Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Views of OSC & Executive and Officers Comments	Recommendation of Standards Committee
c)	Approving fees & charges	Changes in fees and charges which are less than the Annual Retail Price Index	Hillingdon – Make recommendations to Cabinet on all	See Appendix 3 - Responsibilities for Functions 3D – a	OSC and Executive agreed decisions should be the responsibility of individual Executive Members. Therefore it is proposed that the matters currently reserved to the Executive shall in future be the responsibility of individual Members i.e. changes less than ARPI.	Standards Committee recommended permitting this type of decision to be taken by individuals.
d)	Approving submissions of bids for additional Government or external resources		Kensington & Chelsea - All	See Appendix 3 - Responsibilities for Functions 3D – a	OSC and Executive agreed decisions should be the responsibility of individual Executive Members.	Standards Committee recommended permitting this type of decision to be taken by individuals.
e)	Approving compensation payments under the complaints procedure		Hillingdon – Over £1,000	See Appendix 3 - Responsibilities for Functions 3D – a	The Executive recommended financial limits in line with Hillingdon's model	Standards Committee recommended permitting this type of decision to be taken by individuals and felt the proposed financial threshold was appropriate.
f)	Declaring land surplus to requirement	Over £250,000	Hillingdon – All  K&C – Under £250,000 in conjunction with the Cabinet member for Finance and		OSC recommended that this type of executive decision should not be taken by individuals.  Executive agreed with OSC's recommendation.	Standards Committee recommended that individuals should not take this type of executive decision.

Decision		Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Views of OSC & Executive and Officers Comments	Recommendation of Standards Committee
			Property			
g)	Agreeing Contract Tenders as set out in Contract Standing Orders	Other than the lowest tender if above £140,000 or within 20% of the lowest tender if below £140,000	See Appendix 4 & 5	See Appendix 3 - Responsibilities for Functions 3C – 2 3D – c	Should be in line with Contract Standing Orders.	Standards Committee recommended permitting this type of decision to be taken by individuals and noted that this will need to be amended when the new Contract standing Orders are agreed.

h)	Approving variations to contracts as set out in Contract Standing Orders	Above 20%	See Appendix 4 & 5	See Appendix 3 - Responsibilities for Functions 3C – 2 3D – c	Should be in line with Contract Standing Orders.	Standards Committee recommended permitting this type of decision to be taken by individuals and noted that this will need to be amended when the new Contract standing Orders are agreed.
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**Other Issues**

25. Council Assembly is invited to consider the recommendations set out below.

Table 7: Options on other issues

Issue	Option / Questions	Constitutional Changes Required	Views of OSC & Executive	Recommendation of Standards Committee	
a)	Arrangements when the portfolio holder is unavailable	<ul style="list-style-type: none"> <li>• Option 1 - Leader designates an alternative Executive member</li> <li>• Option 2 - Leader or Deputy Leader able to take decision</li> <li>• Option 3 - Decision referred to full meeting of the Executive</li> </ul>	See Appendix 2, Executive Procedure Rule 1.10 e	Overview & Scrutiny Committee recommended option 2.  Executive agreed with OSC's recommendation.	Standards Committee recommended option 2.
b)	Arrangements when the decision affects more than one portfolio	<ul style="list-style-type: none"> <li>• Option 1 - Joint decision taken</li> <li>• Option 2 - Leader designates which portfolio holder takes the decision</li> <li>• Option 3 - Decision referred to full meeting of the Executive</li> </ul>	See Appendix 2, Executive Procedure Rule 1.10 d	OSC recommended option 3.  Executive agreed with OSC's recommendation.	Standards Committee recommended option 3.
c)	Crosscutting issues	Should consideration also be		OSC supported this	Standards Committee

		given to the use of Executive Committees for regular crosscutting issues?		approach. Executive agreed with OSC's recommendation.	recommended this approach.
d)	Controversial decisions	Should the Leader / CE be able to direct that the decision be reserved to a full meeting of the Executive?	See Appendix 2, Executive Procedure Rule 1.10 b	OSC supported this approach. Executive agreed with OSC's recommendation.	Standards Committee recommended this approach.
e)	Referral to Full Executive	Should an individual member be able to refer a decision to a meeting of the full executive	See Appendix 2, Executive Procedure Rule 1.10 c	OSC did not have an opportunity to consider this suggestion. Executive recommended this option.	Standards Committee recommended this approach.
f)	Reporting of decisions	Forward Plan must show Key-decisions, should it also show any non-key decisions that will be taken by individuals?	This will be added to section 14.2 of the Access to Information Procedure Rules	OSC recommended that non-key decisions that will be taken by individuals should be shown on the Forward Plan. Executive agreed with OSC's recommendation.	Standards Committee recommended this approach.
g)		Should a decision sheet be sent to the individual decision-maker with the report for them to record the decision on?	See Appendix 4, Access to Information Procedure Rules	OSC supported this approach. Executive agreed with OSC's recommendation.	Standards Committee recommended this approach.
h)	Call-in threshold	That the call-in period should be extended from 3 to 5 clear working days.	Section 18.5 of the Overview and Scrutiny Procedure Rules will be	OSC had concerns about how call-in would work and in line with the practice at Hillingdon	Standards Committee recommended this approach.

		This recommendation is consistent with good practice identified in the recent ODPM report on Strengthening Local Democracy.	amended to reflect this	they recommended allowing 5 clear working days for call-in.  Executive agreed with OSC's recommendation.	
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**Reconsideration of referred back decision**

26. OSC felt that an individual decision called-in for reconsideration should be referred back to the full Executive rather than to the individual Executive Member, and asked for additional advice on this point to be available to the Executive and Council Assembly.
27. Section 19 of the Local Government Act 2000 establishes that an Overview and Scrutiny's power to call in and scrutinise a decision should include power to refer the decision back to the "decision maker" for reconsideration, or to refer it to Council Assembly. There is no express power to refer a decision to someone other than the decision taker, except where the decision is referred to Council Assembly. The exercise of the power to refer decisions to Council Assembly and not back to the decision taker is subject to statutory guidance, which is that this should only occur if the decision is outside the budget and policy framework (which only Council Assembly can change), the implication being that Council Assembly could opt to change the budget and policy framework so that the decision can fit within it.

The general principle, therefore, is that a decision should be reconsidered by the decision maker who took it (as is applied in respect of Community Council, Executive Member and Officer decisions.) However, it would be possible for the Overview and Scrutiny to recommend, when it refers the decision back to the individual member to recommend that that decision be considered by the Executive as a whole.

**Forward Plan**

28. The Overview & Scrutiny Committee also considered the Forward Plan and a number of general issues arising from the introduction of individual decision-making. OSC also recommended that:
- Further ideas about how to improve the Forward Plan [including general exception notices] should be brought forward for Member discussion – **response:** the Constitutional Team are reviewing the forward plan and will report separately to both Executive and Scrutiny members. Members are invited to make any comments about the format of the forward plan format directly to Ian Millichap.

A notification list of upcoming decisions should be produced on a fortnightly basis – **response:** any additional list would have resource implications; an improved and more accessible forward plan may be sufficient.

## Effect Of Proposed Changes on those affected

29. The introduction of individual decision-making could have a number of consequences and impacts on other structures:

- Decisions will be taken at various times rather than at set points in the meeting cycle. This could have consequences for scrutiny e.g. exercising call-in powers although, as mentioned earlier, longer timescales for calling in individual decisions could be considered.
- Consideration would also need to be given to how delegations to officers and Community Councils are handled e.g. delegations could be direct from the executive, onwards from individual members or a combination of both?
- Member training and development would need to be considered. Statutory guidance, to which the council must have regard, is that members of the executive need access to effective training and development to ensure that they can carry out the role of executive members effectively, and that is particularly important where functions and decision making are delegated to individual member so the executive.

30. In introducing individual decision making it would be important to:

- Guard against a reduction in consultation prior to decisions being taken.
- Guard against a reduction in public access to decision takers.
- Ensure reports, which key-decisions will be based on, are published and circulated to allow time for comments prior to the decision being taken.
- Ensure procedures are in place to publish decisions quickly and circulate them to allow call-in.

31. A decision taken by an individual would still have to conform to the constitutional and legal requirements; a possible scenario is shown below and in a flowchart at appendix 9:

- All individual decisions would appear on the forward plan which would state who the decision taker will be and the earliest date at which it can be taken.
- Officers would prepare a report to inform the decision making process in the same way as for Executive meetings.
- Copies of the reports would be made available a set period prior to the earliest date the decision can be taken, currently at least five working days.
- A decision sheet could be sent to the individual decision taker along with the report. This sheet could state the earliest date when the decision can be taken and have a section to be filled in giving the decision, date of the decision, reason for decision and any alternatives considered.
- The decision taker could discuss the report with relevant officers if required.
- Once the earliest decision date arrives the decision taker can make a decision; then sign, date and return the decision sheet to officers.
- Officers would publish the decision in the same way as for Executive meetings and to the timeframes set out in the constitution, currently within two days of the decision being made.
- The decision could not be implemented for five clear working days after the date it was published.
- The decision could be called-in using the same procedures as followed for decisions taken at executive meetings.
- If not called-in the decision would be implemented after the set time has elapsed.
- If called-in the decision would be considered by OSC in the usual way.
- If OSC decides to refer the decision back for reconsideration it would be reconsidered by the decision taker within the set timeframe, currently seven clear working days.



## Resource Implications

32. There are no specific financial implications within this report

## Legal Implications

33. The Borough Solicitor and her staff have been involved in the preparation of this report and the legal implications are contained in the body of the report.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Harrow LBC's Constitution	Corporate Strategy Southwark Town Hall Peckham Rd London SE5 8UB	Jon Horne 020 7525 7251
Hillingdon LBC's Constitution	Corporate Strategy Southwark Town Hall Peckham Rd London SE5 8UB	Jon Horne 020 7525 7251
Kensington & Chelsea LBC's Constitution	Corporate Strategy Southwark Town Hall Peckham Rd London SE5 8UB	Jon Horne 020 7525 7251
Strengthening Local Democracy – Making the Most of the Constitution  (ODPM Report)	Corporate Strategy Southwark Town Hall Peckham Rd London SE5 8UB	Jon Horne 020 7525 7251

## ADDENDICES

Appendix No.	Title
Appendix 1	Audit Trail
Appendix 2	Proposed - Executive Procedure Rules
Appendix 3	Proposed - Responsibilities for Functions
Appendix 4	Proposed - Addition to Access to Information Procedure Rules
Appendix 5	Analysis of decisions over the period from November 2002 to - March 2003
Appendix 6	Extract from Harrow's Constitution, Responsibility for functions
Appendix 7	Extract from Hillingdon's Constitution, Responsibility for functions
Appendix 8	Extract from Kensington and Chelsea's Constitution, Responsibility for functions
Appendix 9	Flow chart showing the procedure for individual decisions
Appendix 10	Addendum Report from the Head of Social Inclusion: Individual Decision-Making – Implications for Voluntary Sector Grants

**APPENDIX 1****Audit Trail**

<b>Lead Officer</b>	<i>Ian Hughes, Head of Corporate Strategy</i>	
<b>Report Author</b>	<i>Jonathan Horne, Corporate Strategy Assistant</i>	
<b>Version</b>	<i>Final</i>	
<b>Dated</b>	<i>5/9/03</i>	
<b>Key Decision?</b>	<i>No</i>	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	Yes
Head of Social Inclusion	Yes	Yes
<i>List other Officers here</i>		
<b>Executive Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Support Services</b>	5/9/03	

**Proposed changes to the Executive Procedure Rules  
(changes are highlighted in bold italics)**

## **Executive Procedure Rules**

### **1. HOW THE EXECUTIVE OPERATES**

#### **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. These arrangements may provide for Executive functions to be discharged by:

- i) the Executive as a whole;
- ii) a committee of the Executive;
- iii) *an individual member of the Executive***
- iii) Community Councils;
- iv) an officer;
- v) joint arrangements; or
- vi) another local authority.

#### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- ii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- iii) the nature and extent of any delegation of Executive functions to Community Councils, any other authority or any joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and
- v) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of executive functions

- (a) Where the Executive, a committee of the executive **or an individual member of the Executive** is responsible for an executive function, they may delegate to joint arrangements or an officer.
- (b) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- (c) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a committee of the Executive, **to an individual member of the Executive**, to Community Councils or to an officer.
- (d) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to **an individual member of the Executive or** an officer.

### 1.4 *The Council's scheme of delegation and executive functions*

***(a) Subject to (b) below the Councils scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.***

***(b) The Leader may amend the following sections of the scheme of delegation, relating to executive functions at any time during the year, within the limits of the Matters Reserved to the Executive for Collective Decision Making set out in Part 3C:***

- ***Part 3D – Matters Reserved To Individual Executive Members For Decision***
- ***Part 3E - Matters Reserved To Individual Executive Members Within Their Portfolios***
- ***Part 3F – Matters Reserved to Executive Committees***

***To do so, the leader must give written notice to the proper officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the executive as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the leader.***

***(c) Where the leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.***

### 1.5 Conflicts of Interest

- (a) 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.

- (b) If every member of the Executive 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.
- (c) If the exercise of an Executive function has been delegated to a committee of the executive, ***an individual member of the Executive*** or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### 1.6 **Executive meetings – Timing and Location**

The Executive will meet at least 10 times per year at times to be agreed by the Leader. The Executive meetings must take place in the borough.

#### 1.7 **Public or private meetings of the executive**

Meetings of the Executive shall be open to the press and public unless the business under consideration is exempt or confidential as defined in the Access to Information Rules as set out in Part 4 of this Constitution. There will be no private meetings of the Executive.

#### 1.8 **Quorum**

- (a) the Leader or Deputy Leader must be present in order for the meeting to proceed.
- (b) the quorum for a meeting of the Executive, or a committee of it, shall be one quarter of the total number of members of the executive including the Leader/Deputy Leader.

#### 1.9 **How decisions are to be taken by the executive**

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

#### 1.10 ***How decisions are to be taken by the individual members of the executive***

- (a) ***Where executive decisions are delegated to individual members of the executive, in any particular case, the Leader, Deputy Leader and/or the Chief Executive may direct that the decision should be reserved to the Executive;***
- (b) ***Where executive decisions are delegated to individual members of the executive, in any particular case, the individual may direct that the decision should be reserved to the Executive;***
- (c) ***Where an executive decision affects more than one individual executive members' portfolio the decision shall be reserved to the Executive;***

- (d) *Where executive decisions are delegated to individual members of the executive and the member is unavailable the Leader or Deputy Leader shall be able to take the decision***

## **2. HOW THE EXECUTIVE MEETINGS ARE CONDUCTED**

### **2.1 Who presides**

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader shall chair the meeting. In the absence of the Leader and Deputy Leader, an Executive member shall be appointed to preside by those present.

### **2.2 Who may attend**

Members of the public may attend all meetings subject to the restrictions set out in the Access to Information Rules in Part 4 of this Constitution.

### **2.3 Business**

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

- i) minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) public question time – 15 minutes;
- iv) matters referred to the Executive (whether by the Overview & Scrutiny Committee or by the Council Assembly) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- v) consideration of reports from overview and scrutiny committees/sub-committees; and
- vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are 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 Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant 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 executive agenda**

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

Any member of the Executive may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he/she receives such a request the proper officer will comply.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the Executive.

Any member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.

The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an Executive 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 Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive 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.

## **2.6 Formal records to be maintained**

No meeting of the Executive shall commence or conduct business unless the Borough Solicitor & Secretary or her/his representative is present. All meetings are to be clerked by a representative of the Borough Solicitor & Secretary, with minutes to be produced including details of members attending each meetings and details of decisions taken. Copies of all agendas and minutes are to be maintained by the Borough Solicitor & Secretary.

## **2.7 Deputations To The Executive**

1. Requests for deputations from groups of people who have alternative means of expressing their views through recognised channels e.g. employees of the authority, trade unions representing staff employed by the authority etc. should not be entertained under this Rule. Deputations can only be made by a person or people resident or working in the borough.
2. The deputation shall concern matters that fall within the responsibility of the Executive or where the Executive could be reasonably expected to lobby on behalf of residents.

### **Formalities to be observed in applying to be heard**

3. An application for a deputation to be heard by, or written deputation presented to the Executive shall be submitted in writing to the Borough Solicitor & Secretary no later than nine clear working days before the day of the Executive meeting. The date and time of receipt of such requests will be recorded in a book kept for that purpose. Any written representations or petitions associated with a deputation should ideally be submitted at the same time as the request for a deputation and certainly no later than three clear working days before the day of the Executive meeting.

### **Arrangements for attendance**

4. The Borough Solicitor & Secretary shall arrange for the attendance of any deputation. In doing so s/he shall inform the applicants that the Executive has discretion whether or not to receive the deputation.

### **Procedures at Executive Meetings**

5. (i) Motion in Respect of the Receipt of a Deputation –

The Borough Solicitor & Secretary shall report the request for the deputation to the Executive. Thereupon, any Member may move, without prior notice being given: -

- (a) that the deputation be received at this meeting or a future meeting; or
- (b) that the deputation not be received; or
- (c) that the deputation be referred to the most appropriate Committee/Sub-Committee

If and when seconded, any such motion shall be put to the vote without debate and, if carried, the relevant course of action will be taken.

- (ii) Composition of Deputation –

The deputation shall consist of not more than six persons, including its spokesperson.

- (iii) Speech on Behalf of Deputation –

Only one member of the deputation shall be allowed to address the Executive, her or his speech being limited to 5 minutes.

- (iv) Questions to the Deputation and Time Limit –

Members of the Executive may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to 5 minutes at the conclusion of the spokesperson's address.

- (v) No Debate During Deputation –



Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

(vi) Deputation to Withdraw from the Floor –

As soon as questions under sub paragraph (iv) above have been concluded, the deputation shall withdraw but may remain (subject to any resolution excluding attendance of the public).

(vii) Debate, Motion and Amendments –

If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall then be open to debate by the Executive. If the subject does not relate to a report on the agenda, Members may move motions and amendments without prior notice.

(viii) Formal Communication of Executive Decision –

The Borough Solicitor & Secretary shall, in writing formally communicate the decision of the Executive to the person who submitted the request for the deputation to be received.

**Part 3 Responsibility for Functions  
Proposed changes are Parts 3D-F**

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**PART 3B: EXECUTIVE TERMS OF REFERENCE**

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**Responsibilities**

The Executive shall have responsibility for the following.

**Introduction**

1. To lead the community planning process and the search for best value, with input and advice from overview and scrutiny committees/sub-committees, area forums and any other bodies or persons as appropriate;
2. To draft the Budget and Policy Framework for approval by Council Assembly;
3. To take in year decisions on resources and priorities, together with other stakeholders and partners in the local community, to deliver and implement the budget and policy framework as agreed by Council;
4. To oversee the authority's services;
5. To ensure consultation on the development of the Council's policy framework, other key strategic documents and key decisions.
6. To be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

**Policy**

1. To have responsibility for drafting the Community Strategy and recommending it to Council Assembly.
2. To formulate the Council's overall policy objectives and priorities, recommending them to Council Assembly for approval where appropriate.
3. To determine the Council's strategy and programme in relation to the policy and budget framework set by the Council.
4. To determine the Authority's strategy and programme in relation to the social, environmental and economic needs of the area.
5. To exercise the Council's functions in relation to community engagement and the Local Strategic Partnership, including the formulation of Council strategies for communication, consultation, capacity building and active citizenship, and their co-ordination and implementation with particular reference to the provisions of relevant legislation.

6. To promote human rights, equality of opportunity and the interests and particular needs of all those who experience discrimination or disadvantage by virtue of their race, gender, disability, sexuality, or age.
7. To monitor the implementation and co-ordination of the statutory functions and obligations of the Council with respect to equality of opportunity and non-discrimination, including its function as an employer.
8. To oversee and promote initiatives on Best Value across the Council.
9. To set the strategic direction for the Council's democratic renewal initiatives.
10. To consider and promote strategic and Council-wide initiatives to improve the quality, efficiency and effectiveness of the Council's services to the public.

### **General**

1. To have responsibility for the strategic management of the Council's resources - financial, land, property and staffing – and to take decisions on such matters in the context of the Budget and Policy Framework agreed by Council.
2. To have responsibility for the Council's revenue and capital budgets, including the Housing Revenue Account, ensuring effective financial control and the achievement of value for money, within the provisions of Financial Standing Orders.
3. To have responsibility for all staffing and human resource matters including the number and type of staff, equalities issues and health and safety, subject to the Authority's personnel policies and procedures except for staff appointments and dismissals.
4. To oversee and take responsibility for effective joint work with partner agencies.
5. To have overall responsibility for acquisitions and disposal of any interest in land, buildings or the real and leasehold property of the Council and to have responsibility for land and property used for operational purposes.
6. To have responsibility for the Council's role as corporate parent.
7. To have responsibility for all equalities matters concerning both employment policy and practices and service delivery and the active promotion of the Council's equalities policies.
8. To affiliate to and appoint representatives to outside bodies where such appointments are a function of the Executive.
9. To delegate to appropriate Committees of the Executive and to Chief Officers and to receive regular information reports from them with particular reference to value for money; service implementation and development; client/customer service and performance; and the performance and achievement of equalities objectives.
10. To agree the reduction or cessation of any service.
11. To agree the authority's response to consultation papers.
12. To consult with scrutiny and take into account the final reports of scrutiny inquiries.

13. To be responsible for all Executive matters even if not expressly set out in this Part of the Constitution.
14. To consider whether the Council should give evidence before a Royal Commission, Government Committee or similar body.

### **Plans and strategies to be approved by the Executive**

Adult Learning Development Plan  
Area-based Regeneration Plans  
Asset Management Plan  
Asset Management Plan (Education)  
Behaviour Support Plan  
Capital Investment Strategy  
Class Sizes Plan  
Departmental Performance Plans  
Education Action Zone Plan  
European Strategy  
Excellence in Cities Plan  
Food Law Enforcement Plan  
Green Travel Plan  
Headship Training Plan  
Health and Social Care Strategy  
Plans and Strategies which comprise the Housing Investment Programme (including Housing Strategy and Annual Plan, Home Energy Conservation Act Strategy)  
Local Agenda 21 Strategy  
Literacy Action Plan  
LMS Scheme/Formula  
Local Cultural Strategy (including 12 key sector plans)  
National Grid for Learning – ICT Plan  
Numeracy Action Plan  
Post-Inspection Action Plan  
Quality Protects Management Action Plan  
Regeneration Strategy  
Renewal Areas Strategies  
Resource Accounting Business Plan  
Road Safety Plan  
Special Education Needs Action Plan  
Teenage Pregnancy Strategy  
Waste Strategy  
Youth Strategy

### **Local Choice Functions and Local Act functions**

See table of Local Act Functions at Part 3H.

### **The Executive makes decisions in the following circumstances:**

1. Matters Reserved to the Executive as set out in 3C;
2. Matters Reserved to individual Executive members as set out in 3D, except where, in any particular case, the Leader, Deputy Leader and/or the Chief Executive directs that the decision should be reserved to the Executive; or the individual member refers the decision to the executive.

## **EXECUTIVE PORTFOLIOS**

### **Leader of the Council: Portfolio**

To provide leadership of the Council including principal policy direction of the Council within its statutory functions, overseeing the development of the financial strategies and representing the Council in the community and in negotiations with the regional and national organisations. In the absence of an Executive Members the Leader will have responsibility for all relevant matters within the remit of the Executive.

To have specific responsibility for [forward@southwark](mailto:forward@southwark) and the Council's Modernisation Programme.

### **Deputy Leader of the Council: Portfolio**

To deputise for Leader of the Council.

To have responsibility for all functions within the remit of the Executive which relate to the community councils and sports & fitness functions. These include, but not exclusively, the executive matters dealt with by the relevant sections of the Strategic Services Department and other departments but may also include other matters from time to time.

### **Executive Member For Education & Culture: Portfolio**

To have responsibility for all functions within the remit of the Executive which relate to the education and culture functions. This includes, but not exclusively, the executive matters dealt with by the Education Department but may also include other matters from time to time.

### **Executive Member For Environment & Transport: Portfolio**

To have responsibility for all functions within the remit of the Executive which relate to the environment function. These include, but not exclusively, the executive matters dealt with by the Environment & Leisure Department and other departments, but may also include other matters from time to time.

### **Executive Member For Housing: Portfolio**

To have responsibility for all functions within the remit of the Executive which relate to the housing function. This includes, but not exclusively, the executive matters dealt with by the Housing Department but may also include other matters from time to time.

### **Executive Member For Health & Social Services: Portfolio**

To have responsibility for all functions within the remit of the Executive which relate to the housing function. This includes, but not exclusively, the executive matters dealt with by the Housing Department but may also include other matters from time to time.

### **Executive Member For Community Safety, Social Inclusion & Youth: Portfolio**

To have responsibility for all functions within the remit of the Executive which relate to the community safety, social inclusion and youth functions. This includes, but not exclusively, the executive matters dealt with by the relevant parts of the Strategic Services Department and other departments but may also include other matters from time to time.

### **Executive Member For Resources: Portfolio**

To have responsibility for those functions within the remit of the Executive which relate to finance, property, e-government and law and administration. These include, but not exclusively, the executive matters dealt with by the relevant parts of the Strategic Services Department (Financial Services) but may also include other matters from time to time.

**Executive Member For Regeneration and Economic Development: Portfolio**

To have responsibility for all matters within the remit of the Executive which relate to regeneration and economic development. These include, but not exclusively, the executive matters dealt with by the Regeneration Departments but may also include other matters from time to time.

**Executive Member For Communication and Performance Improvement: Portfolio**

To have responsibility for all matters within the remit of the Executive which relate to social inclusion, equalities and regeneration. These include, but not exclusively, the executive matters dealt with by the relevant parts of the Strategic Services Department and other departments but may also include other matters from time to time.

## **PART 3C: MATTERS RESERVED TO THE EXECUTIVE FOR COLLECTIVE DECISION-MAKING**

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1. All relevant matters reserved to the Executive by Council Assembly for decision.
2. Decisions to accept other than the lowest tender for contracts above £250,000, approval of major variations to contracts and disposal of assets in the higher financial ranges, in accordance with the provisions of Contract Standing Orders. *[This limit of £250,000 is based on Hillingdon's model, see 3D for Individual Decision Making Range. This would need to be amended in line with Contract Standing Orders when they are agreed]*
3. Approval for recommendation to Council Assembly of those proposals and plans contained in the Council's budget and policy framework.
4. Decisions regarding the strategic management of the Council including decisions on major reorganisations and major reallocations of functions between Departments or Chief Officers.
5. Approval to the creation of posts at Grade 17<sup>1</sup> and above.
6. Approval to amend terms and conditions of service and employment contracts for individual groups of staff where these will vary from existing Council wide procedures.
7. Decisions regarding the strategic aspects of the regulation and control of the Council's finances.
8. Approval of policy and procedures governing the Council's relationship with the voluntary sector.
9. Approval of grants, under the Community Support Programme, to Voluntary Organisations.
10. Approval of service agreements with voluntary organisations concerned with any of the services operated by the Committee.
11. Amendments to the Council's Equal Opportunities Policy.
12. Agreement to the disposal of leasehold and freehold interests in land and property, excluding RTB and Leasehold Reform Act cases, where the market value is more than £250,000.
13. All disposals at less than best consideration where the market value is more than £250,000 or where ministerial consent is required, unless the disposal is required by statute.
14. Acquisition of land and property, outside any scheme already agreed by Members, where the market value is more than £100,000.

### **Social Services Issues**

15. Appointment of rota visitors to establishments and representatives on the Adoption Panel and Secure Accommodation Review Panel.

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<sup>2</sup>At May 2002, Grade 17 equated to £57,969 - £73,026 per annum.

16. Approval of long term or permanent closures and the cessation of services excluding changes in service delivery in individual cases.
17. In respect of registered homes, consideration of: proposals to cancel registration, proposals to refuse to register, proposals to vary any condition, and proposals to impose an additional condition of registration in accordance with Section 13 of the Registered Homes Act 1984.
18. In respect of registered Children's homes, consideration of: proposals to cancel registration, proposals to refuse to register, proposals to vary any condition, and proposals to impose an additional condition of registration in accordance with Schedule 6 of the Children Act 1989.
19. Consideration of appeals against refusal to register and imposing conditions of registration (except where the appeal relates to Police Checks) in accordance with Section 77 of the Children Act 1989.

### **Education Issues**

20. Subject to the Education Services Contract and the Direction of the Secretary of State under Section 497A of the Education Act 1996; and with respect to the Education Acts:-
  - approval of schools admissions policies
  - decisions to go out to consultation prior to the publication of school re-organisation proposals

### **NOTES**

- (a) All matters not reserved as above or to individuals see 3D & 3E are delegated to the appropriate Chief Officer and 1<sup>st</sup> Tier Officers. All delegated matters can always be decided by the Parent Body. See also Part 3: Matters Delegated to Officers.



## **PART 3D: MATTERS RESERVED TO INDIVIDUAL EXECUTIVE MEMBERS FOR DECISION**

### **Preamble**

There are occasions when matters affect more than one portfolio; on such occasions the decision will be referred to a meeting of the Full Executive.

In discharging any functions that have been delegated, an Executive member must act lawfully. This means that the Executive member must act within the scope of the authority that is delegated to him or her in accordance with any limits within the delegation, this constitution, Council policies, procedure rules and the Members Code of Conduct.

### **Matters Reserved to all Executive Members**

#### **(a) Budget**

- To approve write-offs of debt for their portfolio area of a value of £5,000 or over.
- To receive monthly/regular reports on income written off by officers under delegated powers (i.e. sums under £5,000) for their portfolio area.
- To approve changes in fees and charges, which are less than the Annual Retail Price Index, for services appropriate for their portfolio area.
- To approve the submission of bids from their portfolio area for additional resources from Government and other agencies, where member level agreement is required by the external agency.
- To approve compensation payments above £1000 under the council's complaints procedure.
- Approval of Grants to Voluntary Organisations over £25,000 apart from those under the Community Support Programme.
- To receive regular reports on the budgets for their portfolio area

#### **(b) Service Planning and Delivery**

- To monitor the performance of services, in portfolio areas, (including monitoring against local and national performance indicators) and reporting issues to the Executive where appropriate.
- To agree proposals for enhancements and alterations to service provision within their portfolio area subject to costs being contained within agreed budgets.
- Jointly with the Executive Member for Communications and Performance Improvement, to monitor on a regular basis the service plans approved by Executive for their portfolio area and to report to Executive annually on performance.
- To determine priorities and where appropriate agree the reallocation of resources for the delivery of services in their portfolio area, in conjunction with the appropriate Strategic Director or Head of Service.
- To receive internal audit reports for their portfolio area and to make recommendations to Executive for changes to the service as appropriate.
- Agree departmental business plans
- To consider Best Value Review progress reports, and to make recommendations to Executive on final reports.
- To consider any inspection report by an external agency and make recommendations to the Executive where appropriate.
- To agree service plans and strategies which do not form part of the Policy Framework.

**(c) Tenders and Contracts** *[Note these delegations are based on current Contract Standing Orders which are currently being reviewed. The upper limit for Individual Decision Making of £250,000 is based on Hillingdon's model. These would need to be amended in line with Contract Standing Orders when they are agreed]*

- To accept tenders for contracts, other than the lowest tender, in their portfolio area with a value of between £140,000 and £250,000 except in those circumstances set out in the Procurement and Contract Standing Orders where tenders are not required. If such circumstances apply, officers shall obtain agreement from the appropriate Executive member that tenders should not be sought. To accept tenders for works or services in their portfolio area in the following circumstances:
- To accept tenders for contracts, other than the those within 20% of the lowest tender, in their portfolio area with a value of below £140,000; except in those circumstances set out in the Procurement and Contract Standing Orders where tenders are not required. If such circumstances apply, officers shall obtain agreement from the appropriate Executive member that tenders should not be sought.
- To approve variations to contracts where the accumulated variation is above 20% of the value of the contract

**(d) Partnerships and Consultation**

- To review customer satisfaction, consultation with stakeholders and the efficiency of service provision generally and agree arrangements for continuous improvements to be made in their portfolio area.
- To deal with petitions in their portfolio area in accordance with Council procedure.
- To approve responses to consultation documents from Government, GLA, LGA, ALG and other bodies affecting their portfolio area.
- To appoint representatives to relevant outside bodies.

## **PART 3E: MATTERS RESERVED TO INDIVIDUAL EXECUTIVE MEMBERS WITHIN THEIR PORTFOLIOS**

### **(a) Leader**

- To oversee and report to the Executive on the Council's responsibilities and initiatives in respect of:
  - Forward@Southwark,
  - Modernisation Programme,
- To monitor the operation of the modernised decision making structure and make recommendations to the Executive as appropriate.
- To report to the Executive on the development of information technology within the Council's organisation and the arrangements to promote e-Government in accordance with national strategies.
- To deputise for any other Executive member in that person's absence.

### **(b) Deputy Leader**

- To oversee and report to the Executive on the Council's responsibilities and initiatives in respect of:
  - Community Councils
  - Sports and Fitness
- To assist the Leader in the exercise of his or her functions, and to deputise in his or her absence.

### **(c) Executive Member for Environment and Transport**

- To approve lettings of public open space for funfairs, circuses and other similar events.
- Within the overall budget approved by the Executive and Council, to approve the inclusion of individual projects in the programmes for street lighting, highway maintenance, traffic management, London Cycling Network, London Bus Priority Network, Parking Revenue Account funded schemes, (in consultation with other Executive Members as appropriate) within the financial limits set out in the budget framework.
- To receive monthly reports on numbers of parking penalty charge notices written off or cancelled by officers.
- To approve variations to the cost of projects funded from the parking revenue account and other schemes, within the limits set out in the overall budget framework.
- To approve or refuse requests for footway parking exemptions.
- To consider comments received as a result of public consultation on strategic traffic management proposals, including controlled parking zones, homes zones and other strategic safety schemes and to approve the final form of schemes, including approval to the conditions of use for parking permits to e.g. traders, business users, residents.

### **(D) Executive Member for Housing**

- To approve proposals for naming and re-naming of housing schemes and developments.
- To approve programmes for stock investment and confirmation of adjustments to the programme.
- To approve systems for consultation with tenants and lessees.
- To approve housing management arrangements and methods of procurement.

### **(e) Executive Member for Education, Youth & Leisure**

- To approve variations to schemes for the Local Management of Schools.
- To approve variations to constitutions of School Governing Bodies.
- To exercise the LEA's powers of intervention including the suspension of delegated powers from a governing body in accordance with the School Standards and Framework Act 1998.
- To consider monthly reports on sensitive services or those with significant budget implications, e.g. statements of special educational needs.
- To receive monthly reports on the performance of schools.
- To monitor the performance of any schools where special measures have been applied.
- To consider Ofsted reports on schools in the Borough as necessary

**(f) Executive Member for Health and Social Services**

- To consider reports on sensitive services and those with significant budget implications, e.g. placements in residential homes.
- To provide a link contact between the Council and the Primary Care Trust.

**(g) Executive Member for Community Safety, Social Inclusion and Youth**

- To develop partnership working with the community, the Police, probation service, health service and other stakeholders to develop solutions to community safety concerns.
- To monitor the implementation of the Crime and Disorder Reduction Strategy, including the achievement of targets in the strategy.
- In consultation with the Executive Member for the appropriate service area, to promote effective partnerships between the Council and all other bodies and agencies affecting the community.
- To oversee proposed arrangements with public and other bodies for the delivery of partnership initiatives and to develop successful partnerships with the other private, public and voluntary agencies which affect the Borough.
- To be responsible for developing awareness throughout the Council of community safety and social inclusion.

**(h) Executive Member for Resources**

- To oversee and report to the Executive on the Council's responsibilities and initiatives in respect of financial controls, monitoring of the overall revenue and capital budgets,
- To recommend, in consultation with other appropriate portfolio holders, to the Executive the priorities for the inclusion of projects in the Council's capital maintenance programme.
- To receive monthly updates of the sales programme.
- In consultation with the appropriate portfolio holder, to monitor the implementation of changes made as a result of recommendations from Internal Audit.
- To receive reports from departments relating to the quality, supervision, user satisfaction and outcomes resulting from capital projects after six months completion in order to ensure that capital investment results in planned outcomes.
- To receive all reports from all departments relating to budgets showing actual and accrued expenditure and to examine reasons for under/over achievement.

**(i) Executive Member for Communication & Performance Improvement**

- To oversee and report to the Executive on the Council's responsibilities and initiatives in respect of performance improvement, performance monitoring, best value and communication with local people.

- To make recommendations to the Executive on areas for best value review.
- To approve variations to the Best Value review programme.
- In consultation with the Executive Member for the service portfolio area, to monitor on a regular basis the service plans approved by Executive and to report annually to Executive on performance.

**(j) Executive Member for Regeneration and Economic Development**

- To receive progress reports on the single regeneration budget and to report to the Executive as necessary.
- To receive monthly progress reports on the completion of planning obligations (section 106) Agreements.
- To consider representations made on proposals for modifications to the UDP and to make recommendations to Executive as appropriate.
- To consider representations made to proposals for supplementary planning guidance and to make recommendations to Executive as appropriate.

**NOTE:**

All matters not reserved to the executive or to individual members are delegated to the appropriate Chief Officer and 1<sup>st</sup> Tier Officers. All delegated matters can always be decided by the Parent Body. See also Part 3: Matters Delegated to Officers.

**PART 3F: MATTERS RESERVED TO EXECUTIVE COMMITTEES**

The leader will maintain a written record of any delegations to Executive Committees here.

**Proposed addition to the Access to Information Procedure Rules**

**Decisions by individual members of the executive**

Reports intended to be taken into account

Where an individual member of the executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

**Provision of copies of reports to overview and scrutiny committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

**Record of individual decision**

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## Appendix 5

**Executive Decisions From 5<sup>th</sup> November 2002 to 11<sup>th</sup> March 2003 Which Could Have Been Taken Individually Under The Hillingdon Or Kensington & Chelsea Constitutions**

Date	Item	Hillingdon	K&C
11/3/03	Voluntary Sector Fast Track Review		✓
	Abandoned Vehicles – The Way Forward	✓	✓
	Early Years Development & Childcare Partnership Implementation Plan		
	Quarterly Performance Report – Annual Targets for 03/04 & Estimated Performance 03/04		
	Development of Community Warden Schemes	✓	✓
	Award of Banking Services	✓	✓
	ALG Transport & Environment Committee – Vehicle Emission Testing & Enforcement		✓
25/2/03	South London Gallery Trust Stabilisation – Decisions for Trustees		
	South London Gallery Trust Stabilisation – Decisions for Council		
	Community Strategy for Southwark 2003-6		
	Proposed Disposal Strategy for Empire Warehouse with the Development of an Educational Facility in Partnership with the Shakespeare Globe Trust		If below £250,000
	LMS Formula and Scheme for Financing Schools 2003/04		
	Youth Service Plan: 2003/04		✓
	Connexions Service Plan 2003/04		✓
	Canada Water – Permission to Seek CPO Powers		
	19-23 Sternhall Lane SE15 – Disposal		If below £250,000
	Scrutiny Recommendations in Respect of Re-Negotiation of Council Tax & Housing Benefit Contract	✓	✓
	District Audit Annual Letter		
	Parks & Open Spaces BVR – Review of the Ranger Services		✓
	Award of the Negotiated Revenues & Benefits Contract	If below £250,000	✓
Introduction of Congestion Charging	✓	✓	

	Award of Contract for Security Services for Various Council Premises	If below £250,000	✓
11/2/03	Motions Submitted – Comprehensive Performance Assessment	✓	✓
	Housing Revenue Account Budget and Rent Setting		✓
	Southwark's Budget Requirement and Council Tax 2003/04		
	The Capital Programme and Draft Capital Strategy		
	Best Value Review of Disabilities		✓
	Air Quality Monitoring and Congestion Charging	✓	✓
	Elephant and Castle – Early Development and Investment Opportunities		
	Addressing Traffic Congestion in Peckham Town Centre	✓	✓
	Regeneration Department Voluntary Sector Contracting 2003/04	✓	✓
	Recommendations from O&S – Public Disorder at the Council's 2002 Firework Display	✓	✓
	Best Value Review of Member and Constitutional Support Services		✓
	The Victoria Climbié Inquiry		✓
Review of the Revenue Budget 2003/04			
28/1/03	Comprehensive Performance Assessment (CPA) Update		
	Equality Diversity and Community Cohesion: Update on Policy & Proposed Challenge Function	✓	✓
	Best Value Review of Highway Maintenance		✓
	Fusion Performance 2002/03		✓
	CPO – Bermondsey Square		
	Disposal of Properties at Auction		If below £250,000
	Canada Water – Selection of Developer Shortlist		✓
	Local Government Ombudsman Report 01/B/15998	✓	✓
	Local Government Ombudsman Report 01/B/17404	✓	✓
Future Management of Burgess Park		If below £250,000	



	50-58 Glengall Rd - Options		If below £250,000
	Extension of PAX Consultancy Contract	✓	✓
24/1/03	Proposed Grants Programmes 2003/04		
14/1/03	London Boroughs Grants Scheme 2003/04		
	Constitutional Changes for Community Councils		
	Implementing the Borough Identity	✓	✓
	Reference: Final Report of the Health & Social Care Scrutiny Sub-Committee – Access to Primary Care	✓	✓
	Appointment to ALG Health and Social Services Panel		
	Peckham Rd – New Lister Health Centre Disposal		If below £250,000
6/1/03	Call-In Request: Best Value Review of Early Years		
	Call-In Request: Best Value Review of Housing Management		
17/12/02	Fresh Start for the Elephant & Castle – Guiding Principles & Core Proposals		✓
	Motions Submitted – Southwark Heritage Association	✓	✓
	Motions Submitted – Dulwich Park	✓	✓
	Motions Submitted – Abandoned Shopping Trolleys		
	56 Southwark Bridge Rd	✓	✓
	Southwark's Air Quality & Improvement Plan		✓
	Southwark's Cultural Strategy – Initial Phase		✓
	Developing Southwark's Anti-Poverty Agenda		✓
	Peckham Partnership Phase 8A(1) - Disposal		If below £250,000
	Compulsory Purchase of Land at 80-118 Spa Rd		
	Draft Revised Decant Policy – Report Back on Consultation		✓
	Freedom of Information Act 2000 – Publication of Scheme		✓
	Provisional Finance Settlement & its Implications for the Council's Revenue Budget		
	Local Improvement Finance Trust (LIFT)		✓

	Potters Field – Land Transfer		If below £250,000
	Integrated Cleansing Contract		
3/12/02	Motions Submitted – Music Lessons in Primary Schools	✓	✓
	Motions Submitted – Garden Waste Scheme	✓	✓
	Motions Submitted – Council Representation on LSP	✓	✓
	Motions Submitted – Street Cleaning Contract	✓	✓
	Best Value Review of Housing Management		✓
	Quarterly Performance Report		
	Report on Education Performance	✓	✓
	Reports from Inspectors on Revenues & Benefits Service	✓	✓
	Council's Draft Enterprise Strategy		✓
	Local Strategic Partnership Employment Strategy		✓
	Disposal of Former Short-life Properties		If below £250,000
	Award of Contract Preventative Planned Maintenance Programme 2002/03	If below £250,000	✓
	Best Value Review of Early Years		✓
	Best Value Review of Legal Services and Restructuring		✓
19/11/02	Annual Library Plan		
	Comprehensive Performance Assessment		
	Auction Disposal of Short-life Properties		If below £250,000
	Bermondsey Spa Site J – Selection of Preferred Developer Team	If below £250,000	✓
	Integrated Cleansing Contract – Update Report	✓	✓
	Community Councils - Implementation		
	Draft Waste Management Strategy		✓

	Unitary Development Plan – Supplementary Planning Guidance		✓
	Short Term Waste Disposal Contract	✓	✓
5/11/02	Southwark Customer Service Centre		
	Implementation of New Funding Framework for Advice Services	✓	✓
	Community Safety Capital Programme	✓	✓
	Outcome of Fairer Charging Policies for Homecare & Non-Residential Social Services Consultation		✓
	London Secure Services: Orchard Lodge & Stamford House	If below £250,000	✓
	Post OFSTED Inspection Action Plan	✓	✓
	Post OFSTED Inspection Action Plan – Report from Education, Youth & Leisure O&S	✓	✓
	Unitary Development Plan – Supplementary Planning Guidance		✓
	Disposal of Pelican House		If below £250,000
	Insurance Broker Tender	If below £250,000	✓
	Revenue Budgets for 2002/03, 2003/04 and Future Years		
	Approval of Peckham Partnership – Phase 6B Construction		✓
	Extension of Contract with Sharpe Pritchard, Solicitors for Provision of Legal Services	✓	✓