

Item No. 7	Classification: Open	Date: 26/05/04	Meeting Name: Council Assembly
Report title:		Individual Decision Making	
Ward(s) or groups affected:		All	
From:		Members Working Group and Standards Committee	

RECOMMENDATIONS

That Council Assembly agrees changes to the Constitution to provide for individual decision-making, in line with the recommendations from the Members Working Group and Standards Committee, set out in paragraphs 22 – 26, and specifically to agree:

1. the delegation of executive functions as set out in option 2 of paragraph 22 of this report.
2. the scheme of delegation set out in option 3 of paragraph 23 of this report.
3. the recommendations as to the areas of individual decision-making set out in paragraphs 24 and 25 of this report.
4. the appropriate financial ranges, for individual decision making, in any of the areas set out in the table at paragraph 25 and in particular:
 - Whether there should be an upper limit for approving grants (row a)
 - Whether there should be an upper limit for approving debt write-offs (row b)

Note: The Standards Committee asked officers to look at these two issues and report to Council Assembly. Officer recommendations are as follows:

- (1) *Grants - individual decision makers shall consider the award of grants to voluntary organisations over £2,500, apart from those under the Community Support Programme, with no upper limit.*
 - (2) *Debt write-off - individual decision makers shall consider write-offs between the following limits £5,000 - £50,000.*
5. the recommendations set out in paragraph 26 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
 - Representations
 - Declarations of prejudicial Interest
 - No call-in of non-key decisions relating to contract standing orders
 6. the proposal 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 26)
 7. 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

8. The issue of Individual Decision Making was initially raised at Overview and Scrutiny Committee on 16th April 2003.
9. The Executive considered the issue on the 20th May 2003 and 29th July 2003. The recommendations of the Executive are set out in the Key Issues for Consideration section of this report (see paragraphs 22-26).
10. 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 7th July 2003. The recommendations of the OSC are set out in the Key Issues for Consideration section of this report (see paragraphs 22-26).
11. The Standards Committee initially considered the report on the 2nd September 2003. The recommendations of the Standards Committee are set out in the Key Issues for Consideration section of this report (see paragraphs 22-26).
12. The Individual Decision-making Working Party (IDM Working Party) was constituted by Council Assembly at its meeting on 17th September 2003 with the following terms of reference:

“To make recommendations for a revised set of proposals including consequential amendments to the Constitution’s Procedure Rules and Schedules of Delegation with the intention that the revised item is submitted to Council Assembly at its November meeting.”
13. The working party met on five occasions between November 2003 and January 2004. It considered the recommendations of the Standards Committee and looked in particular at the impact of individual decision-making on the award of grants to voluntary organisations and contract standing orders.
14. The Standards Committee reconsidered the issue of individual decision making, taking into account the recommendations of the IDM working party, on 8 March 2004. At that meeting it considered two officer recommendations that had not been considered by the IDM working party. The first was that current call-in provisions should not apply to non-key contract decisions. The second issue was that non-key decisions should not appear on the forward plan or be subject to the normal five day set period from the publication of the report until the decision is made as there is no legal requirement that non-key decisions should be subject to these requirements.
15. The reasons for limiting call-in for non-key contract decisions and the requirements for all non-key decisions not to be included on the forward plan or subject to the five-day stand-down period relate to efficiency of business. Individual members making non-key contract decisions will catch large numbers of minor decisions that are currently made by officers. This raises two risks. Decisions may not be able to be made quickly enough and the requirements may be too difficult to meet. If this was to occur the Council may find itself repeatedly in breach of its Contract Standing Orders. The Borough Solicitor advised the Standards Committee that Members needed to weigh these risks against the need for transparency and scrutiny of these types of decisions.
16. The Standards Committee agreed with both of the Officer recommendations but has recommended that a record of all non-key decisions should be monitored and a quarterly report made to the Overview & Scrutiny Committee.

17. 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
18. On 29th 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.
19. 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
 - Increase transparency and accountability of decision taking
 - Shorten Executive meetings
 - Reduce number of Executive meetings
20. 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)
21. The timetable for agreeing constitutional changes necessary to implement Individual Decision Making is set out below. A separate report on modernising Contract Standing Orders is elsewhere on this agenda.

Table 1: Timetable for agreeing Individual Decision Making

Meeting	Date	Action
Individual Decision-Making Working Party	Final Meeting (to be arranged if required following circulation of draft final report)	To consider the proposed changes and make recommendations to Standards & Council Assembly.
Standards Committee	8 th March 2004	To consider proposed changes and make recommendations to Council Assembly.
Council Assembly (Constitutional Council)	26 th May 2004	To consider and agree changes to the Constitution.
	June 2004	Relevant individual decisions included on the Forward Plan.
	1 st July 2004	Individual decision making commences.

KEY ISSUES FOR CONSIDERATION

Delegation of executive functions

22. 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	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
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	The proposed changes to the constitution in line with this option are shown in: <ul style="list-style-type: none"> Appendix 2, Executive Procedure Rule 1.3 	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.	IDM Working Party & Standards - Recommend Option 2 – reviewed after a year.
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.		Executive on 29 th July 2003 supported option 3. Standards Committee recommended option 3.	

Scheme of Delegations

23. 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	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
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	IDM Working Party & Standards - supported option 3.

The extent of individual decision-making

24. Individual decision-making could cover any of the executive functions but elements for delegations are set out below.

Table 4: Proposed key elements of the delegations

	Proposed key elements of the delegations	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
a)	Approving alterations to service provision within their portfolio's budget	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC, Executive & Standards recommended permitting this type of decision to be taken by individuals.	No change to previous Standards recommendation.
b)	Approving departmental business plans	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC, Executive & Standards recommended permitting this type of decision to be taken by individuals.	No change to previous Standards recommendation.
c)	Best Value Reviews	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC, Executive & Standards recommended that this type of decision should not be taken by individuals (but felt that progress reports could).	Officer advice is for this to be in line with IDM Working Party recommendation on Inspection reports, see below. Standards recommended this approach.
d)	Inspection reports	See Appendix 3 – (3D – b) Responsibilities for Functions	OSC, Executive & Standards recommended permitting this type of decision to be taken by individuals.	IDM Working Party & Standards - Recommended that this should include recommendations for no action and that where there are significant policy implications these should go to the Executive. See Appendix 3 – (3D – b).
e)	Approving exemptions to procurement rules subject to legal and EU requirements	See Appendix 3 – (3D – c) Responsibilities for Functions	OSC, Executive & Standards recommended permitting this type of decision to be taken by individuals.	See separate CSO Report and IDM Working Party & Standards Recommendations in table at appendix 6

	Proposed key elements of the delegations	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
f)	Dealing with petitions	See Appendix 3 – (3D – d) Responsibilities for Functions	<p>OSC recommended an additional type of decision:</p> <p>“Decisions on traffic petitions, which could be made in an open forum where the public can make representations”.</p> <p>Executive agreed with OSC’s recommendation.</p> <p>Standards Committee recommended permitting this type of decision to be taken by individuals.</p>	IDM Working Party & Standards -Recommended the inclusion of a clause allowing petitions to be presented to individual members, Executive or Council. This issue will be dealt with as part of the general constitutional review, see separate report.
g)	Approving responses to consultations	See Appendix 3 – (3D – d) Responsibilities for Functions	OSC, Executive & Standards recommended permitting this type of decision to be taken by individuals.	IDM Working Party had concerns about clarity over who should respond to consultations. Standards felt that the protocol should ensure members are kept informed of consultations which would affect their ward. See section 4 of protocol at appendix 7.
h)	Responding to O&S Reports		OSC, Executive & Standards recommended that this type of decision should not be taken by individuals.	Not recommended for Individual Decision Making.
i)	Decisions within financial limits (these are set out in more detail in Table 5 below:	See Appendix 3 - Responsibilities for Functions		

25. 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	Previous Views of OSC, Executive & Standards and officer comments	Recommendation of IDM Working Party and Standards
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 and agreed Option B of the Voluntary Sector Fast Track Review.</p> <p>The Head of Social Inclusion recommended financial limits be:</p> <ul style="list-style-type: none"> • Over £25,000 decision by individual member • Under £25,000 decision by Chief Officer <p>Standards Committee recommended permitting this type of decision to be taken by individuals.</p> <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>	<p>IDM Working Party Recommended decisions over £2,500 should be taken by individuals.</p> <p>Standards recommend an upper limit be set above which the decision would go to the Full Executive.</p> <p>The Head of Social Inclusion recommends that there should not be an upper limit, as it would mean that individual members are not able to makes decisions on a whole package that forms part of an integrated service.</p> <p>However, if an upper limit is set, a level of £100,000 would ensure that in most cases the individual member would consider the whole package.</p>

	Decision	Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Previous Views of OSC, Executive & Standards and officer comments	Recommendation of IDM Working Party and Standards
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.	Hillingdon – Over £5,000 K&C £10,001 - £100,000 & in conjunction with the Cabinet member for Finance and Property between £100,001 - £250,000	See Appendix 3 - Responsibilities for Functions 3C - 10 3D – a	<p>The Executive recommended financial limits in line with Hillingdon’s model.</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</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>Not discussed by the Working Party.</p> <p>Standards recommend an upper limit be set above which the decision would go to the Full Executive.</p> <p>The Chief Finance Officer recommends that the upper limit for debt write-offs should be that debt write-offs over £50,000 be taken by the Full Executive.</p>

Decision		Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Previous Views of OSC, Executive & Standards and officer comments	Recommendation of IDM Working Party and Standards
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, Executive & Standards agreed decisions should be the responsibility of individual Executive Members.	Standards recommend this should apply where not already set within the budget setting process.
d)	Approving submissions of bids for additional Government or external resources		Kensington & Chelsea - All	See Appendix 3 - Responsibilities for Functions 3D – a	OSC, Executive & Standards agreed decisions should be the responsibility of individual Executive Members.	No change to previous Standards recommendation.
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.	Legal advice is that this should not be an executive function. Not recommended for Individual Decision Making.
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 Property		OSC, Executive & Standards recommended that this type of executive decision should not be taken by individuals.	Not recommended for Individual Decision Making.

	Decision	Current range where an Executive decision is required	Examples elsewhere	Constitutional Changes Required	Previous Views of OSC, Executive & Standards and officer comments	Recommendation of IDM Working Party and Standards
g)	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 Approving variations above 20%		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.	See separate CSO Report and Standards & IDM Working Party Recommendations in table at appendix 6. See also comments in row f & k of table 6 below.

Other Issues

26. Options on other issues are set out below.

Table 6: Options on other issues

	Issue	Option / Questions	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
a)	Arrangements when the portfolio holder is unavailable	<ul style="list-style-type: none"> Option 1 - Leader designates an alternative Executive member Option 2 - Leader, or in his/her absence, Deputy Leader able to take decision Option 3 - Decision referred to full meeting of the Executive 	See Appendix 2, Executive Procedure Rule 3.1 – (1)	OSC, Executive & Standards recommended option 2.	No change to previous Standards recommendation.

	Issue	Option / Questions	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
b)	Arrangements when the decision affects more than one portfolio	<ul style="list-style-type: none"> • Option 1 - Joint decision taken • Option 2 - Leader designates which portfolio holder takes the decision • Option 3 - Decision referred to full meeting of the Executive 	See Appendix 2, Executive Procedure Rule 3.1 – (5)	OSC, Executive & Standards recommended option 3.	No change to previous Standards recommendation.
c)	Crosscutting issues	Should consideration also be given to the use of Executive Committees for regular crosscutting issues?		OSC, Executive & Standards supported this approach.	No change to previous Standards recommendation.
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 3.1 – (3)	OSC, Executive & Standards supported this approach.	No change to previous Standards recommendation.
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 3.1 – (2)	OSC did not have an opportunity to consider this suggestion. Executive & Standards recommended this option.	No change to previous Standards recommendation.

	Issue	Option / Questions	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
f)	Reporting of decisions	Forward Plan must show Key-decisions, should it also show any non-key decisions that will be taken by individuals?	If required this will be added to section 14.2 of the Access to Information Procedure Rules	OSC, Executive & Standards recommended that non-key decisions that will be taken by individuals should be shown on the Forward Plan.	<p>IDM Working Party Recommended that the requirement for non-key decisions, that will be taken by individuals, to be included on the forward plan should not apply to non-key decisions to ‘do other than tender’.</p> <p>Officers advise that this exemption should apply to all non-key decisions that will be taken by individuals. The reason for this is the difficulty in predicting these types of decisions in advance and the potential urgency once such decisions arise.</p> <p>Standards Committee recommended this approach.</p>
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	<p>OSC supported this approach.</p> <p>Executive agreed with OSC’s recommendation.</p>	No change to previous Standards recommendation.

	Issue	Option / Questions	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
h)	Call-in threshold	<p>That the call-in period should be extended from 3 to 5 clear working days.</p> <p>This recommendation is consistent with good practice identified in the recent ODPM report on Strengthening Local Democracy.</p>	Section 18.5 of the Overview and Scrutiny Procedure Rules will be amended to reflect this	<p>OSC had concerns about how call-in would work and in line with the practice at Hillingdon they recommended allowing 5 clear working days for call-in.</p> <p>Executive & Standards agreed with OSC's recommendation.</p>	<p>No change to previous Standards recommendation.</p> <p>See also row (k) below</p>
i)	Representations	<p>Representations received by the individual decision-taker must be recorded on the decision sheet.</p> <p>Where a ward member submits representations the relevant individual executive member shall endeavour to discuss the matter with the councillor prior to taking the decision.</p>		<p>These recommendations were made by the IDM Working Party and have not been considered by the Executive or OSC.</p> <p>Standards Committee recommended that 'shall endeavour to' be changed to 'should'.</p>	
j)	Declarations of Prejudicial Interest	Where an individual declares a Prejudicial Interest the decision should be referred to the Full Executive.	See Appendix 2, Executive Procedure Rule 1.4 c	This recommendation was made by the IDM Working Party and has not been specifically considered by the Executive or OSC. It is however consistent with the current constitution.	

	Issue	Option / Questions	Constitutional Changes Required	Previous Views of OSC, Executive & Standards	Recommendation of IDM Working Party and Standards
k)	No call-in of non-key decisions relating to Contract Standing Orders	Whether non-key decisions relating to contract standing orders should be subject to call-in.	See Appendix 2, Executive Procedure Rule 3.6	<p>This is an officer recommendation. These decisions were formerly taken by officers, and therefore were not previously subject to call-in in accordance with the Overview and Scrutiny Rules. Having analysed non-key decisions relating to contract standing orders it is apparent that many are of a minor nature. Furthermore many will be likely to be subject to strict deadlines. A record must be kept of these decisions and it is proposed to analyse this record at the end of six months and report to the Standards Committee.</p> <p>Standards recommended this approach but felt the report should be quarterly and should go to OSC.</p>	

Reconsideration of referred back decision

27. 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.
28. 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. However, it would be possible for Overview and Scrutiny to recommend, when it refers the decision back to the individual member, that the decision be considered by the Executive as a whole.

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, as mentioned earlier, it is proposed that call-in be extended from three to five clear working days.
 - Member training and development will be needed. 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. 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 5:

All key individual decisions

- All key 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.

Non-Key decisions

- Non-key individual decisions will not appear on the forward plan, in accordance with Access to Information Rules (see rule 14), which provides for key decisions to be included on the forward plan.
- Officers would prepare a report to inform the decision making process in the same way as for Executive meetings, however there would be no requirement for the decision taker to wait for five days until they can make the decision.
- A decision sheet could be sent to the individual decision taker along with the report. This sheet could 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.
- The decision taker could make the decision on receipt of the report or after speaking with officers 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.

For those non-key decisions that relate to Contract Standing Orders

- The decision would not be subject to the usual scrutiny process and would be effective immediately.

For all other non-key decisions

- 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.

An implementation programme for individual decision-making is being put in place to support the introduction of this new process and raise awareness. This will include guidance for members and officers, member development sessions and training for key officers involved in the process.

Resource Implications

31. There are no specific financial implications within this report

Legal Implications

32. Currently the Constitution provides all decisions relating to executive functions are subject to call-in, apart from non-key decisions made by officers. The Constitution also provides that only key decisions taken by the executive will be included on the forward plan. The Borough Solicitor's advice is that there should continue to be no requirement for non-key decisions to be included in the forward plan or be subject to the normal five day set period from the publication of the report until the decision is made, and that non-key contract decisions not be subject to call-in.

33. Under the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (SI 2000 No 3272) there is no requirement for non-key decisions to be included in a forward plan or be subject to the five-day set period (regulation 9). The Constitution is currently drafted to reflect this position in respect of all non-key decisions of the executive, so no amendments to the constitution will be required to implement these suggestions.

34. Under the Access to Information Rules in the Southwark Constitution the definition of 'key decisions' is very broad and includes any decision that is likely to have a significant impact on communities. For this reason the Borough Solicitor considers that only minor decisions, that formerly would have been made by officers, will go through the truncated process. Borderline decisions, in accordance with the definition of 'key decision' in the Constitution will be required to be treated as a key decision and go through the key decision process and will go on the forward plan and be subject to scrutiny in the normal way.

35. It should be borne in mind that there is a strict requirement on recording all decisions. It is proposed that a record of all non-key decisions will be monitored and reports made to the Standards Committee.

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	Flow chart showing the procedure for individual decisions
Appendix 6	Table of recommended Member involvement in CSOs
Appendix 7	Protocol on Consultation responses

APPENDIX 1

Audit Trail

Lead Officer	Bob Coomber, Chief Executive	
Report Author	Jonathan Horne, Corporate Strategy Assistant Ian Millichap, Constitutional Team Manager	
Version	Final	
Dated	13/5/04	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	Yes	Yes
Head of Social Inclusion	Yes	Yes
List other Officers here		
Executive Member	Yes	Yes
Date final report sent to Constitutional Support Services	13/05/04	

**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
- iv) 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 *The Council's scheme of delegation and executive functions*

The Council's scheme of delegation will be subject to adoption by the Council Assembly and may only be amended by the Council Assembly. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

1.4 **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.

1.5 **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 and in accordance with the procedures in section 2 below.
- (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.
- (c) Where executive decisions are delegated to individual members of the executive they will be taken in accordance with the procedures in section 3 below.
- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

2. **HOW EXECUTIVE MEETINGS ARE CONDUCTED**

2.1 **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.

2.2 **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.

2.3 **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.

2.4 **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.

2.5 **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.

2.6 **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.

2.7 **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.

2.8 **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.

2.9 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.

2.10 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.

3. HOW INDIVIDUAL EXECUTIVE MEMBER DECISION-MAKING IS CONDUCTED

3.1 Who takes the decision

The individual executive member who is responsible for the portfolio area or to whom the decision is delegated shall take the decision, except in the following circumstances:

1. The Leader, or in his/her absence, Deputy Leader may take the decision if the relevant individual executive member is unavailable.
2. The relevant individual executive member may indicate that they wish the decision to be referred to a meeting of the full Executive.
3. The Leader or the Chief Executive may direct that the decision be reserved to a meeting of the full Executive.
4. Where an individual executive member has a personal and prejudicial interest in the decision the matter shall be referred to the full Executive.
5. Where the decision affects more than one portfolio or is a crosscutting issue the matter shall be referred to the full Executive.

3.2 Who may inspect documents

All reports for key individual executive member decisions shall be available for public inspection five clear working days prior to the decision, subject to the Access to Information Rules in Part 4 of this Constitution.

3.3 Business

The relevant individual executive member shall consider a report setting out the recommendation, the justification for the decision, any options to be considered, details of the consultation and any representations received.

A decision sheet shall be sent to the individual executive member with the report. This will state the earliest date when the decision-taker can take the decision.

The decision-taker can discuss the report with relevant officers if required.

3.4 Consultation/ Representations

All reports to the individual executive member 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. Any representations received must be forwarded to the decision-maker for consideration.

Where a ward member submits representations, the relevant individual executive member should discuss the matter with the Councillor prior to taking the decision.

3.5 Formal records to be maintained

The decision-maker must complete and sign a decision sheet for each decision. The decision sheet has sections to be filled in giving the decision, date of the decision, reason for the decision, alternatives considered and any representations received by the individual decision-maker.

All completed decision sheets must be forwarded to the Borough Solicitor & Secretary. Copies of all reports and decision sheets are to be maintained by the Borough Solicitor & Secretary.

3.6 Non-Key Decisions relating to Contract Standing Orders

Rule 18 of the Overview and Scrutiny Rules in Part 4 of this Constitution will not apply to non-key decisions relating to Contract Standing Orders.

3.7 All other decisions

All other decisions delegated to an individual in accordance with rule 1.1 above, will be subject to Rule 18 of the Overview and Scrutiny Rules. The Borough Solicitor & Secretary or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 18.4 Overview and Scrutiny Procedure Rules).

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

PART 3B: EXECUTIVE TERMS OF REFERENCE

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 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 health and social services function. This includes, but not exclusively, the executive matters dealt with by the Social Services 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 Best Value, service improvement, customer focus and communicating with local people. 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

1. All relevant matters reserved to the Executive by Council Assembly for decision.
2. Decisions on matters reserved to the Executive in accordance with the provisions of Contract Standing Orders in Part 4 of the Constitution. *[See separate report on CSOs and the table of recommendations at appendix 6.]*
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 17¹ 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. Approving write-offs of debt of a value of over £50,000
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.
15. The acquisition of land and property which involves the use of a Compulsory Purchase Orders.

Social Services Issues

16. Appointment of rota visitors to establishments and representatives on the Adoption Panel and Secure Accommodation Review Panel.
17. Approval of long term or permanent closures and the cessation of services excluding changes in service delivery in individual cases.

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

18. 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.
19. 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.
20. 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

21. 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 1st 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.

(a) Budget

- Proposing revenue and capital budget allocations to the executive, in relation to their areas of responsibility.
- Agreement of significant programmes in relation to these objectives.
- Agreement of Fees and charges, in relation to their areas of responsibility, other than any set by Council Assembly as part of the Budget process.
- Approving the submission of bids for additional resources from Government and other agencies, in relation to their areas of responsibility, where member level agreement is required by the external agency.
- Matters reserved to individuals above specific financial thresholds:
 - Approving write-offs of debt for their portfolio area of a value of £5,000 – £50,000.
 - Approving Grants to Voluntary Organisations over £2,500, apart from those under the Community Support Programme.

(b) Service Planning and Delivery

- Agreement of statutory and other strategies, in relation to their areas of responsibility, except where they relate to cross-cutting issues.
- Agreement to significant policy issues, in relation to their areas of responsibility.
- Agreement of performance standards and key policy objectives, in relation to their areas of responsibility.
- Agreement to policy and performance priorities for the short and medium term, in relation to their areas of responsibility and taking into account the needs of the Council as a whole.
- Agreement of service plans, in relation to their areas of responsibility.
- To consider Best Value Review reports and:
 - Agree the action plan, including recommendations for no action, where there are no significant policy implications
 - Make recommendations to the Executive, including recommendations for no action, where there are significant policy implications.
- To consider any inspection report by an external agency and:
 - Agree the action plan, including recommendations for no action, where there are no significant policy implications
 - Make recommendations to the Executive, including recommendations for no action, where there are significant policy implications.

(c) Tenders and Contracts

Decisions on matters reserved to Individual Executive Members in accordance with the provisions of Contract Standing Orders in Part 4 of the Constitution. *[See separate report on CSOs and the table of recommendations at appendix 6 of the main report.]*

(d) Partnerships and Consultation

- To approve responses to consultation documents from Government, GLA, LGA, ALG and other bodies relating to significant changes affecting their portfolio area, which would not require changes to the budget and policy framework.
- Agreeing broad consultation arrangements, in relation to their areas of responsibility.
- To promote effective partnerships, between the Council and other agencies and bodies affecting the community, in relation to their areas of responsibility.
- To deal with petitions in their portfolio area in accordance with Council procedure.

PART 3E: MATTERS RESERVED TO EXECUTIVE COMMITTEES

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

NOTE:

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

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.

FLOWCHART SHOWING THE PROCEDURE FOR INDIVIDUAL DECISIONS - APPENDIX 5

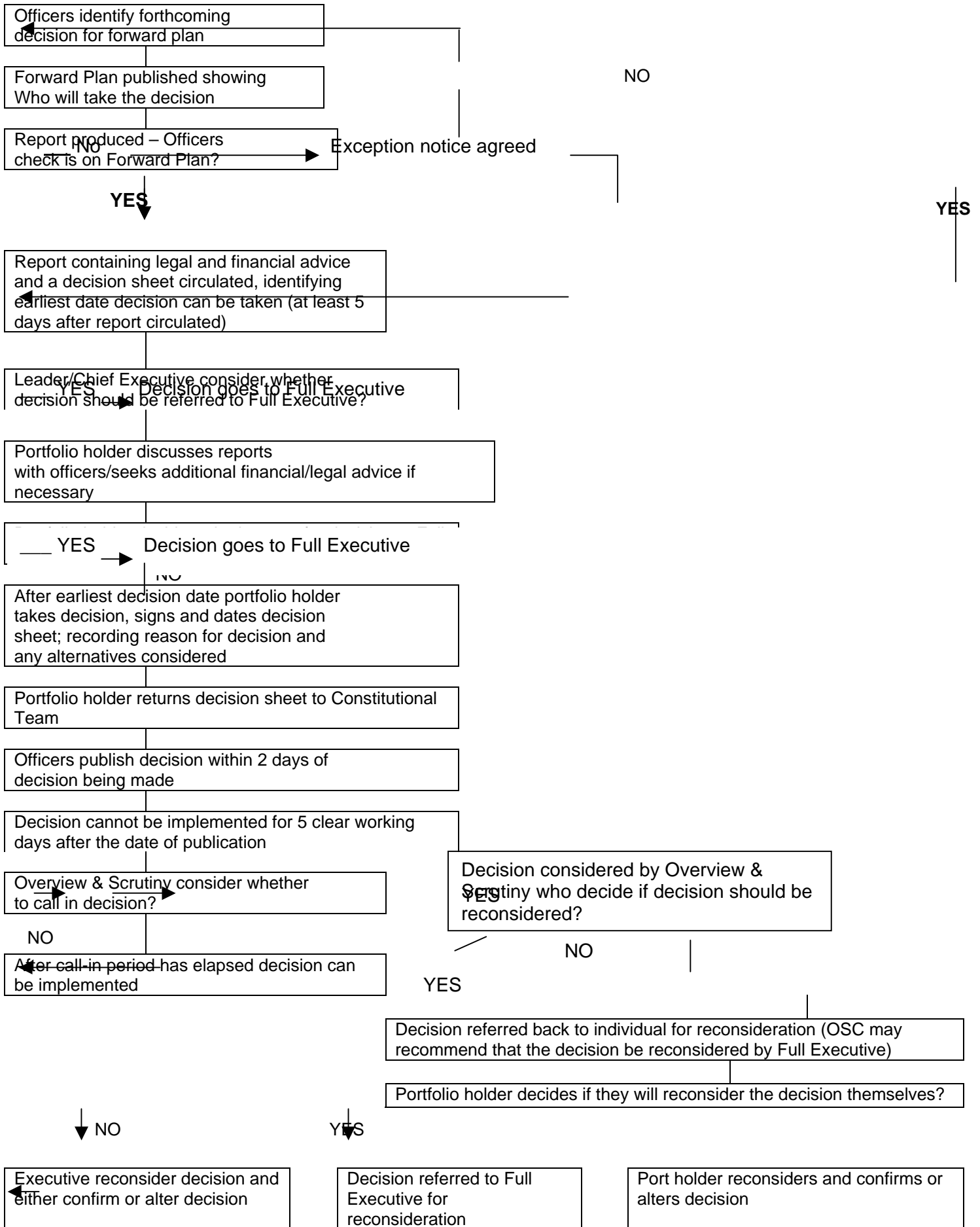


Table of Recommended Member Involvement in CSOs

	DECISION TO BE MADE	WHO MUST TAKE DECISION
<u>Decision to proceed with the procurement process</u>		
<u>A Strategic Procurement</u>	Agreement on the procurement strategy in relation to a Strategic Procurement (See definition of Strategic Procurement below)	The Executive
<u>B Single tender / negotiation</u>	Decision to carry out a tender process with only a single tenderer or to negotiate with only a single provider where the Estimated Contract Value is above the relevant EU Threshold (where EU requirements allow this)	IDM
<u>Decision on contract award</u>		
<u>C Strategic Procurement — contract award</u>	Award of contract which is Strategic Procurement and the Executive has not previously agreed a different route for award, such as to IDM.	The Executive
	Award of a contract which is a Strategic Procurement and where the Executive has previously agreed that IDM will make the decision on award of the contract (such as they may consider in relation to High Value contracts)_	IDM
<u>D Contract award – not Strategic Procurement and award to other than Lowest Bid</u>		
	a. Where the Tender Value is below relevant EU Threshold and - is not more than 15% above the Lowest Bid	Chief Officer
	- is more than 15% above the Lowest Bid	IDM
	b. Where the Tender Value is above relevant EU Threshold and - is not more than 15% above the Lowest Bid	IDM
	- is more than 15% above the Lowest Bid	The Executive

	DECISION TO BE MADE	WHO MUST TAKE DECISION
<u>Decision to allow variations during contract term</u>		
<u>E</u> <u>Variations of contracts</u>	<ul style="list-style-type: none"> Any decision to vary a contract must be made in accordance with CSOs. For the purpose of this CSO a variation is a sum to be paid which was not anticipated when the contract was awarded or is not allowed for in the terms of the contract. Where an additional amount is to be paid which is in respect of an outstanding sum for works or services already provided or where there is a variation required because an Urgent Payment is required, and the officer has obtained confirmation from the Borough Solicitor that the sums are legally payable, the decision to make the payment may be made by a Chief Officer regardless of the amount. The decision must be reported in writing to the Executive or to IDM subsequently (depending on which would, other than for the urgency, have taken the decision). Where a decision on a variation is made in relation to a contract for Works, there will also be a deemed decision that the contract of any consultant engaged in relation to that Works contract will be varied to the same percentage as that applied to the Works contract, without the need for a separate decision in relation to the consultant's contract. Where the sum to be paid to the consultant is not a fixed percentage of the Works contract value, then this does not apply. 	
	<u>E1 Executive</u>	
	Where the amount of the variation is more than 15% of the Tender Value, unless the decision is one given to the Chief Officer by E3 below	The Executive
	<u>E2 IDM</u>	
	<u>a. Services / supplies:</u> where the Tender Value plus the amount of the proposed variation and any previous variations is more than £500,000, and the amount of the proposed variation is not more than 15% of the Tender Value	IDM
	<u>b. Works:</u> where the Tender Value plus the amount of the proposed variation and any previous variations is more than the current EU Works limit, and the amount of the proposed variation is not more than 15% of the Tender Value	IDM
	<u>E3 Chief Officer</u>	
	<u>a. Services / supplies:</u> where the Tender Value plus the amount of the proposed variation and any previous variations is less than £500,000, and the amount of the proposed variation is not more than 15% of the Tender Value:	Chief Officer or on his/her delegated authority
	<u>b. Works:</u> where the Tender Value plus the amount of the	Chief Officer or on

	proposed variation and any previous variations is less than the current EU Works limit, and the amount of the proposed variation is not more than 15% of the Tender Value:	his/her delegated authority
	<u>c. General</u> : where the total of the Tender Value and the amount of the proposed variation and any previous variations is less than £25,000:	Chief Officer or on his/her delegated authority

Strategic Procurement

means procurement where one or more of the following apply:

- (1) Contract value over £2 million for non-works and £10 million for works.
- (2) Significant change to previous service.
- (3) Possible externalisation or change in manner of delivery.
- (4) Significant transfer of assets or staff.
- (5) Political sensitivity
- (6) Carrying a high level of risk.

Draft Protocol for Dealing with Consultation Responses

Role and Purpose

This protocol sets out the respective responsibilities for responding to consultations. The protocol supplements and interprets, but does not supplant the provisions of the Council's Constitution and in particular the Responsibilities for Functions at part 3 of the Constitution.

This protocol gives a guide as to the appropriate individual or body who should agree a response to a consultation. If it is not clear who should agree a consultation response advice should be sought from the Legal and Democratic Services. If any doubt remains the response should be agreed by the body or individual at the higher level of delegation.

Responsibilities for Consultation Responses

The appropriate individual or body, to agree a response to a consultation, will depend on the nature of the consultation and the implications for the Council's strategic policy or operational delivery. There are four levels where agreeing a consultation response may be reserved to:

1. Council Assembly - responsible for responses relating to fundamental changes to:
 - The constitution
 - Finance / budget
 - The Policy Framework
 - Central / Local Government relationships
2. Executive - responsible for responses relating to:
 - Significant changes to crosscutting policy, which would not require changes to the budget and policy framework.
 - Significant changes to crosscutting activities or operations, which would not require changes to the budget and policy framework.
3. Individual Members - responsible for responses relating to:
 - Significant changes to policy, within their portfolio, which would not require changes to the budget and policy framework.
 - Significant changes to activities or operations, within their portfolio, which would not require changes to the budget and policy framework.
4. Chief Officers - responsible for all other responses.
 - Where any such consultation would affect a particular ward or wards the relevant Ward Members should be kept informed of the consultation and the Council's response.