

Item No. 7	Classification: Open	Date: 07/07/03	MEETING NAME Overview and Scrutiny Committee
Report title:		Report on Individual Decision Making	
Ward(s) or groups affected:		All	
From:		Chief Executive	

RECOMMENDATIONS

1. That Overview and Scrutiny considers the options set out in paragraphs 22 and 23 of this report and comment on their preferred options.
2. That Overview and Scrutiny consider the list of potential key areas for individual decision-making, set out in paragraph 24 of this report, and comment on any preferences.
3. That Overview and Scrutiny consider each of the issues set out in the table in paragraph 25 of this report and comment on any preferences.
4. That the recommendations of Overview and Scrutiny be referred to the Executive, Standards Committee and Council Assembly for consideration.

ADDITIONAL INFORMATION REQUESTED BY OSC

5. Officers to invite representative from London Borough of Hillingdon [a politically finely balanced authority] to OSC in July 2003 – in particular to discuss the way in which they deal with key decisions – **response:** at time of writing, Hillingdon scrutiny chair unable to attend but seeking another member
6. Officers to provide further advice about whether a called-in individual decision where reconsideration is recommended should be referred back to full Executive or only to the individual Executive Member – **response:** Borough Solicitor to advise at O&SC
7. How does call-in work elsewhere – Is the decision taken on a set day of the week e.g. Tuesday. **Response:**
 - None of the authorities looked at have set days for executive members to take decisions.
 - Newham have a fortnightly day for the Mayor to take decisions but do not have individual decision making for other executive members.
 - In Hillingdon when portfolio holders take decisions on petitions they may invite petitioners along.
 - Having a set day for executive members to take decisions would have some advantages in administering, however, it would remove much of the flexibility and speed of decision making that individual decision making should improve. If it is left to the individual to decide when to take the decision, after the date in the forward plan, then it will be important to ensure efficient procedures are in place to publish the decision.

8. Which of the options for setting the delegations, see paragraph 22, do other authorities follow?

Response:

- Hillingdon, Kensington & Chelsea, Westminster and Newham, follow option 1 whereby the Leader (Mayor in Newham) sets the delegations
 - Harrow and Hammersmith & Fulham follow option 2 whereby Council sets the delegations, both only allow non-key decisions to be taken individually.
 - Camden follow a variation of option 3 whereby Council agree the scheme of delegation at annual council but the Executive may agree changes during the year.
9. Further ideas about how to improve Forward Plan [including general exception notices] should be brought forward for Member discussion – **response:** the Constitutional Team are reviewing the forward plan in the light of comments made at the previous meeting of O&SC, 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.

BACKGROUND INFORMATION

10. The Issue of Individual Decision Making was raised at Overview and Scrutiny Committee on 16th April 2003. This report is an initial introduction to the issue of delegating decisions to individual members of the Executive. The briefing will introduce the issues and allow members of the committee to identify any additional information they require before making their recommendations, when the issue comes to back them in July.
11. The Executive considered the issue on the 20th May 2003 and made the following recommendations:
- That option 1, see paragraph 22 of this report, whereby the Leader sets the delegations is their preferred option.
 - That their preferred option is for a generic scheme of delegation rather than specific schemes for each member, see paragraph 23 of this report.
12. The Executive also suggested that:
- The examples of delegations set out in paragraph 24 of this report were appropriate.
 - That Scrutiny and Standards should consider the other issues, see paragraph 25 of this report.
 - That the scheme of delegation to officers should be considered.
13. A report will come back to Overview and Scrutiny Committee to make recommendations. The Executive and Standards Committee will consider these views. Subsequently Council Assembly will be asked to consider changes to the constitution.
14. 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

15. 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.
16. 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.
17. 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
18. Some principles of Individual Decision Making are that it should:
 - Not erode officer delegations
 - Not include HR responsibility for individual members of staff
 - Not include geographical allocation of resources e.g. EIP
19. Other boroughs have adopted various approaches to decision-making powers for individual Members:
 - The report 'Evaluating Local Governance - Survey Findings for 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 3 for an extract from Harrow's Constitution, Responsibility for Functions.
 - Havering and Hillingdon also allow some key-decisions to be taken individually. About 30% of executive decisions are taken individually in Hillingdon. See appendix 4 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 5 for an extract from K&C's Constitution, Responsibility for Functions.
20. An analysis of whether Southwark Executive's decisions, taken over the last four months, could have been taken by individual executive members under the Hillingdon and Kensington & Chelsea constitutions is attached at Appendix 2. 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.

21. 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.

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

KEY ISSUES FOR CONSIDERATION

22. Should the Council set the arrangements for the discharge of executive functions or should the delegations be left to the Leader?
- Option 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.
 - Option 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.
 - Option 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.
23. Should the scheme of delegations show separate delegations for each individual member or should there be a generic scheme that covers all the Executive Members.
24. The extent of individual decision-making.
- The report has identified three models of individual decision-making, operating in London boroughs. However, these are not discreet 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 might include:
- Approving alterations to service provision within their portfolio's budget
 - Approving departmental business plans
 - Best Value Reviews
 - Inspection reports
 - Approving exemptions to procurement rules subject to legal and EU requirements

- Dealing with petitions
- Approving responses to consultations
- Responding to O&S Reports
- Decisions within financial limits for any of the areas listed below. 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 the full meeting of the Executive. This could also include intermediate financial limits above which the portfolio holder could take decisions in conjunction with the Executive Member for Finance.
 - Approving grants – There could be a range of options around grants e.g.
 - Individual decision making for a range from the upper limit of officer delegations to an upper limit
 - All grant decisions being taken together.
 - Approving debt write-offs
 - Approving fees & charges
 - Approving submissions of bids for additional Government or external resources
 - Approving compensation payments under the complaints procedure
 - Declaring land surplus to requirement
 - Agreeing Contract Tenders as set out in Contract Standing Orders
 - Approving variations to contracts as set out in Contract Standing Orders

25. Other Issues

Issue	Option / Questions
Arrangements when the portfolio holder is unavailable	<ul style="list-style-type: none"> • Leader designates an alternative Executive member • Leader or Deputy Leader able to take decision • Decision referred to full meeting of the Executive
Arrangements when the decision affects more than one portfolio	<ul style="list-style-type: none"> • Joint decision taken • Leader designates which portfolio holder takes the decision • Decision referred to full meeting of the Executive
Crosscutting issues	Should consideration also be given to the use of Executive Committees for regular crosscutting issues?
Controversial decisions	Should the Leader / CE be able to direct that the decision be reserved to a full meeting of the Executive?
Reporting of decisions	<p>Forward Plan must show Key-decisions, should it also show any non-key decisions that will be taken by individuals?</p> <p>Should a decision sheet be sent to the individual decision-maker with the report for them to record the decision on?</p>

Effect Of Proposed Changes on those affected

26. 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.
27. 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.
28. A decision taken by an individual would still have to conform to the constitutional and legal requirements; a possible scenario would be:
- If it were a key decision it 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. Non-key decisions, which would be taken by individuals, could also be recorded on the forward plan but would not have to be.
 - 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 a set period after the date it was published, currently three clear working days.
 - 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 O&S in the usual way.
 - If O&S 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

29. There are no specific financial implications within this report

Legal Implications

30. 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

ADDENDICES

Appendix No.	Title
Appendix 1	Audit Trail
Appendix 2	Analysis of decisions over the last four months
Appendix 3	Extract from Harrow's Constitution, Responsibility for functions
Appendix 4	Extract from Hillingdon's Constitution, Responsibility for functions
Appendix 5	Extract from Kensington and Chelsea's Constitution, Responsibility for functions

APPENDIX 1

Audit Trail

Lead Officer	<i>Eamon Lally</i>	
Report Author	<i>Jonathan Horne</i>	
Version	<i>Final</i>	
Dated	<i>30/5/03</i>	
Key Decision?	<i>No</i>	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	Yes
Chief Finance Officer	No	No
<i>List other Officers here</i>		
Executive Member	Yes	Yes
Date final report sent to Constitutional Support Services	30/5/03	

Appendix 2

Executive Decisions From The Last Four Months 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	✓	✓