



Leicester
City Council

WARDS AFFECTED
Type in Ward

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:
CABINET**

23rd June 2008

DECISIONS BY INDIVIDUAL CABINET MEMBERS

Report of the Service Director (Democratic Services)

1. PURPOSE OF REPORT

- 1.1 For the Cabinet to consider whether and what decisions they may wish to delegate to individual Cabinet Members and the procedure that would be required.

2. SUMMARY

- 2.1 The Cabinet is asked to determine:

Whether to delegate to each Cabinet Lead decisions within his or her portfolio which would otherwise need to be made by the Cabinet, and if so to approve that:

- (a) Each decision be subject to the Leader indicating written support for the decision;
- (b) Cross-portfolio decisions to be subject to approval by all relevant Cabinet Leads;
- (c) The report on which each such decision is based be published five clear days in advance as for other decision-making reports;
- (d) The other practical arrangements described in paragraphs 3.3 to 3.5 be established;
- (e) Indemnity and insurance cover to be extended as in paragraph 3.6

3. REPORT

What the Constitution Says

- 3.1 The powers and controls are:

- (1) The Cabinet decides on the delegation of executive functions to Cabinet Committees, Cabinet Members and Officers; that part of the Scheme of Delegation is determined by the Cabinet and the Leader is responsible for maintaining the formal record and presenting such a record to the Annual Meeting of the Council (**Cabinet Procedure Rules 1, 2, and 3**)
- (2) Cabinet Members can further delegate to Officers.
- (3) Conflict of interest prevents the exercise of delegation (**Rule 4**).
- (4) A Key Decision may only be taken (whether by Cabinet, Cabinet Committee, Cabinet Member or Officer) if:
 - it is in a published Forward Plan (**Access to Information Rule 12**); or
 - it cannot wait and be published for five clear days notice and sent to the Scrutiny Committee Chair and Group Spokesperson (**Rule 14**).
 - the Scrutiny Chair agrees it is urgent (**Rule 15**)
- (5) A Key Decision may only be taken by a Cabinet Member five clear days after a report has been published and sent to the Scrutiny Chair and Group Spokesperson.
- (6) Any decision by a Cabinet Member (key or otherwise) must be published, with reasons, within two working days, and the five member call-in provision applies in exactly the same way as for Cabinet decisions (**Cabinet Procedure Rule 12**). The decision would then be subject to Scrutiny and, potentially, full Council consideration, before being implemented.

3.2 Any executive decisions can be delegated, say to give more flexibility to speed up decisions between Cabinet meetings. This is a matter for the full Cabinet. Limitations and conditions can be imposed on exercise of the delegation. It is essential that the terms of reference, and scope of the delegation are clear and documented:

- ad hoc delegations can be recorded in Cabinet minutes.
- delegations for a period should be incorporated into the Scheme of Delegation.

What Practical Arrangements are required

3.3 Arrangements for Cabinet Member decisions would need to take account of several matters, including:

- (1) Ensuring that all relevant advice is provided, including financial and legal, and that all Council policies are taken into account. In practice an officer report will be needed, perhaps a brief (two sides maximum) summary of the salient factors.
- (2) The need to address and document any conflicts of interest.

- (3) Considering whether a Key Decision is involved, and if so following the additional procedures.
 - (4) Identifying background papers as for any Member decision.
 - (5) Recording and publishing the decision and the reasons for it. In practice, there would be a minute or subscript to the decision paper, signed by the Member at the time of the decision. This, with the report and background papers, would be published in the normal way on “*Modern.gov*” with the decision sent to all Members of the Council.
 - (6) Making clear who is responsible for ensuring proper financial and legal input, and for all other stages in the process.
- 3.4 Numerous authorities have Constitutions which enable delegation to Cabinet Members. The full Access to Information process, are usually applied, with a report published five clear days before the decision.
- 3.5 The delegation could, additionally, be made “*subject to the Leader (or another Cabinet Member) indicating written support for each decision*”. This would have the advantage of sharing accountability and ensuring consistency. It would be necessary, for a cross-portfolio decision, to obtain the approval of all relevant Cabinet Leads. Care would be needed to avoid further bureaucracy and actually create a bottleneck.
- 3.6 Individual decision-making involves additional personal accountability. Indemnity and insurance cover will need to be reviewed to maximise protection. For protection from (successful) legal challenge, individuals must act:
- In good faith
 - In the light of proper advice
 - Reasonable taking account of relevant factors and ignoring irrelevant ones
 - Avoiding conflict of interest
 - With documented reasons, taking care to justify departures from recommendations, exceptions, to policies, calculated risks and choices between finely balanced options.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1. Financial Implications

The options in this report are permitted under the Council’s Constitution. The arrangements and safeguards outlined would be needed to ensure a legally sound and auditable process, and for the protection of those involved. The requirement for sound governance permeates all aspects of the Council’s Scheme of Delegation, and a governance statement must be presented annually to the Audit Committee with a summary included in the Council’s statement of accounts.

Apart from the servicing costs of any Cabinet Committee, there are no financial implications, assuming that the cost of additional insurance cover will be nominal. (Andy Morley, Chief Accountant).

4.2 Legal Implications

The Constitution enables Cabinet to keep under review and amend its Scheme of Delegation at any time, including, as proposed, delegation to individual Cabinet Members.

Where an executive function has been delegated, for example, to an individual member that does not prevent the discharge of the function by Cabinet.

It would be good practice for Cabinet to keep under review new arrangements which can be further developed and amended to suit.

Amendments to the Scheme of Delegation approved by Cabinet will be published via the Intranet as part of the Constitution and reported for information for full Council. (Peter Nicholls, Service Director & Head of Legal Services)

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting information	References
Equal Opportunities	NO		
Policy	NO		
Sustainable and Environmental	NO		
Crime and Disorder	NO		
Human Rights Act	NO		
Elderly/People on Low Income	NO		

5. Report Author

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Key Decision	No
Reason	N/A
Appeared in Forward Plan	N/A
Executive or Council Decision	Council