



Leicester
City Council

CABINET

20 MAY 2002

DECISIONS BY CABINET COMMITTEES AND INDIVIDUAL MEMBERS

Report of the Town Clerk

1. PURPOSE OF REPORT

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

2. RECOMMENDATIONS

- 2.1 The Cabinet is asked to determine:

- (1) whether to set up any Cabinet Committees at this stage and, if so, with what terms of reference.
- (2) 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 be subject to approval by all relevant Cabinet Leads;
 - (c) The report on which each such decision is based be published three clear days (soon to be five clear days) in advance as for other decision-making reports;
 - (d) The other practical arrangements described in paragraphs 2.4 be established;
 - (e) Indemnity and insurance cover be extended as in paragraph 2.7.

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 (**Cabinet Procedure Rules 1, 2 and 3: page 141**).
- (2) Cabinet Committees and Cabinet Members can further delegate to Officers.
- (3) Conflict of interest prevents the exercise of delegation (**Rule 5**).
- (4) Cabinet Committees must have written terms of reference and membership. Their procedures are identical to Cabinet meetings in all respects; notice and conduct of meetings, publication of agendas and documents, publication and call-in of decisions.
- (5) 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 three clear days notice (soon to be five clear days) is published and sent to the Scrutiny Triumvirate (**Rule 14**).
 - the Scrutiny Chair agrees it is urgent (**Rule 15**).
- (6) A Key Decision may only be taken by a Cabinet Member three clear days (soon to be five clear days) after a report has been published and sent to the Scrutiny Triumvirate (**Rule 20**).
- (7) 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 and Cabinet Committee 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 decision 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 Existing procedures are adequate for Cabinet Committees, although the resourcing of additional meetings would need to be assessed.

- 3.4 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 (comparable to an old-fashioned “*chairs action*” report).
 - (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.
- 3.5 Several authorities have Constitutions which enable delegation to Cabinet Members. As far as we know, not many have implemented it. Buckinghamshire and Kensington & Chelsea have. We understand they apply the full Access to Information process, with a report published three days (soon to be five days) before the decision.
- 3.6 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.
- 3.7 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;
 - reasonably 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 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.
- 4.2 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.

OTHER IMPLICATIONS	YES/NO	Paragraph Within Supporting References information
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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