

# SECTION D. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

## Responsibility for functions and procedures

1. This section of the Constitution sets out the responsibilities of the Leader and Cabinet.
2. The Leader is responsible for any functions which are not specifically required to be carried out by the Council under regulations.

## RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

### 1. General

- 1.1 All the functions of the Council are executive functions except for:
  - Those listed in Schedule 1 of the Local Authority's (Functions and Responsibilities) (England) Regulations 2000 (as amended); and
  - Those set out in this Constitution as being the responsibility of the Council or a body established by the Council.
- 1.2 Executive functions will be exercised by the Leader except when the matter is dealt with under joint arrangements or delegated to the Cabinet, a committee of Cabinet, an individual Cabinet member or an Officer.
- 1.3 The Leader will discharge both these functions in accordance with the Cabinet procedures and the access to information rules.
- 1.4 The Leader will make sure all necessary steps are taken to prepare the Authority's budget, and those plans and strategies which constitute the Authority's policy framework as set out in Part 4 of this Constitution prior to their final approval and adoption by the Council. They will undertake this work in accordance with the budget and policy framework procedure rules.

## THE LEADER'S SCHEME OF DELEGATION FOR EXECUTIVE FUNCTIONS

### 1. Background

- 1.1 The Council has adopted the Leader and Cabinet style of executive arrangements. Under this arrangement all executive functions are vested in the Leader who can then delegate functions as seen fit. This document sets out the delegation of those functions but excludes any decisions that are contrary to the policy framework or budget which must be taken by council.
- 1.2 The Leader is responsible for:
  - appointing members of the Cabinet;
  - delegating executive responsibilities to the Cabinet;
  - delegating executive responsibilities to committees carrying out executive functions;
  - delegating executive responsibilities to individual Cabinet members;

- allocating executive responsibilities to officers;
  - allocating executive responsibilities when no-one has responsibility for them.
- 1.3 The Leader can at any time take back responsibilities delegated to committees of the Cabinet, an individual Cabinet member or officer, or decide to delegate them on certain conditions. (i.e. The Leader can choose to exercise any powers in the Scheme of Delegation).
- 1.4 The Leader can also decide to delegate further responsibilities to committees of the Cabinet, individual Cabinet members or to an officer.
- 1.5 Executive responsibilities are carried out on behalf of the council and in the council's name.

## **2. Delegations to Cabinet**

- 2.1 The Leader has decided that some executive decisions must be agreed by the Cabinet (set out in section 2.2). These decisions will be taken collectively by all Cabinet members, unless the Cabinet takes a specific decision to delegate that decision to a Cabinet member, committee or officer.
- 2.2 The decisions that must be agreed by the Cabinet are:

### Key Decisions

A key decision is an executive decision (taken by Cabinet, portfolio holders or by officers on Cabinet's behalf) that is likely:

- 1) Which involves the incurring of expenditure, or the making of savings, by the Council, which are anticipated to be £250,000 or above. The exception to this rule being where approval has previously been received to incur that expenditure by the Executive, notwithstanding criterion 3; or
- 2) Where the Council is entering into a contractual obligation with a value of £750,000 or above; or
- 3) For the acquisition or disposal of land or property with a value of £750,000 or above; or
- 4) Where the effect would be on communities living or working in the district, in an area comprising two or more wards. However, decisions that impact on communities living or working in one ward will be treated as "key" if the impact is likely to be very significant.

## **3. Areas of Responsibility of Individual Cabinet Members**

- 3.1 The individual members of Cabinet will have responsibility for the functions that are set out below.

## **4. Delegations to Cabinet Members**

### **A. General Delegations to all Portfolio Holders**

In addition to acting collectively in the Cabinet, each Cabinet Member will have the general role of providing leadership and guidance in respect of all executive functions within the portfolio area for which they are accountable and the promoting and improving of the Council's profile and public perception.

In accordance with the Secretary of State's guidance, Cabinet Members should amongst other things:

- (i) ensure that they have sufficient time to focus on broad strategic issues (para 4.21 of the Guidance); and
- (ii) seek advice from relevant officers before taking a decision within their own delegated authority; where appropriate this should include taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is a doubt about legal powers (para 4.44 of the Guidance).

Any matter within a Cabinet Member's delegated powers may be referred by them to Cabinet for decision.

To regularly review the effectiveness of policies and the performance of services and make recommendations for continuous improvement to the Cabinet.

To oversee the capital and revenue budgets in areas of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.

To be consulted by Corporate Directors upon in year changes to fees and charges (including the introduction of new fees and charges)

To liaise and work with other portfolio holders on cross cutting areas of responsibility and make recommendations to Cabinet as appropriate. [Note: Any matter relating to more than one portfolio area must be referred by the portfolio holders to Cabinet for decision.]

To oversee the review of fees and charges and recommend changes in line with the Council's agreed budget strategy.

To make or agree recommendations to Cabinet in relation to new policy areas.

To consider and endorse service plans to ensure compliance with the Corporate Plan.

To be accountable to the Cabinet for the implementation of agreed priorities and final recommendations from the Corporate Plan, Service Plans and reviews and to consider and act on reports received from officers monitoring progress.

To authorise the making of applications for planning permission for proposed development relating to the Member's portfolio area.

To make recommendations to Cabinet on bids for additional funding; expenditure; variations to expenditure and the letting of contracts for works; goods and services, in accordance with the Council's Contract Standing Orders. To support individual projects within the Cabinet Member's portfolio area, provided such expenditure is within the overall project budget and above the prevailing virement threshold.

In any case where a matter is urgent and a decision cannot reasonably await the next meeting of the Cabinet and the relevant portfolio holder does not have a general or specific delegated power, the relevant portfolio holder may nevertheless make a decision on behalf of the Cabinet subject (except in the case of the Leader) to prior consultation with the Leader and subject to the decision being reported to Cabinet as soon as practicable. [Note: in the case of a key decision the Access to Information Procedure Rules must still be complied with.]

## **B. Specific Delegations to Portfolio Holders**

Leader Of The Council with Strategy and Transformation Portfolio

1. To approve the appointment of Council Members to sit on external Partnership
2. Boards related to regeneration and to monitor their performance in accordance with approved guidance;
3. To nominate a Cabinet Member to act on their behalf on a specific project;
4. To recommend to Council and Cabinet (as the case may be) the appointment or nomination of Members to fill vacancies on the Approved Table of Outside Bodies;
5. To exercise any specific delegated power of any Cabinet Member;

To lead policy development and advise the Cabinet on:

1. Strategy and Transformation
2. Strategic Planning
3. Planning (Development Control)
4. Port and Harbours
5. Levelling Up and Town Deals Projects

Delegated powers on the following areas within the portfolios of:

### Neighbourhoods

1. To approve following public consultation, all parking orders, taxi rank locations, street management schemes and resident parking schemes;

### Corporate Services

1. To approve the write off of debts over £10,000;
2. To authorise terms for the acquisition and sale of property with an estimated value of over £250,000.

## **Deputy Leader of the Council**

To act on behalf of the Leader when they are absent or unable to act and may nominate any Cabinet member to deputise for the Leader in the absence of the Leader and Deputy Leader. To work under the Leader's direction on Cabinet co-ordination and ensure resolution of any inter portfolio issues.

## **Portfolio - Regeneration and Property**

### **Scope of Portfolio**

To lead policy development and advise the Cabinet on:

1. Regeneration and Growth
2. Property

## **Portfolio - Cleansing and Coastal Services**

### **Scope of Portfolio**

To lead policy development and advise the Cabinet on:

1. Cleansing
2. Coastal and Public Realm

## **Portfolio - Corporate Services**

### **Scope of Portfolio:**

To lead policy development and advise the Cabinet on:

1. Finance and Procurement
2. Legal and Democracy
3. Human Resources
4. Facilities Management
5. Health and Safety
6. Revenues and Benefits
7. Climate Change

## **Portfolio - Housing**

### **Scope of Portfolio**

To lead policy development and advise the Cabinet on:

1. Tenancy Services
2. Housing Options
3. Housing Strategy and Projects
4. Private Sector Housing
5. Housing Capital Developments

## **Portfolio – Community**

### **Scope of Portfolio:**

To lead policy development and advise the Cabinet on:

1. Cemeteries and Crematorium
2. Multi-agency services (Margate Task Force)
3. Enforcement services
4. Community safety
5. Regulatory services (Environmental Health/Licensing/Food safety/Air quality)
6. Technical support

## **Portfolio – Parking**

### **Scope of Portfolio:**

To lead policy development and advise the Cabinet on:

1. Parking

## **5. Delegations To East Kent Services**

Certain functions are delegated to East Kent Services see Section F.

## **6. General Rules As To Cabinet Delegations**

- a. Cabinet can authorise a Cabinet Member, Committee or an Officer to carry out its delegated responsibilities on its behalf;
- b. A Cabinet Member can authorise a Committee or an Officer to carry out their delegated responsibilities on their behalf;
- c. Committee can authorise a Sub-Committee or an Officer to carry out their delegated responsibilities on their behalf.

### **6.1 Delegation To Officers**

- (1) All executive responsibilities except the ones in Sections 2 and 4 above are delegated to the Officers in the corporate management team and the Service Directors (see SECTION E) noting any capital and revenue delegation limits.

An Officer can only carry out a responsibility if:

- they (or an Officer who reports to them) have budgetary or management responsibility for it; and
- the Constitution or the law does not require it to be carried out by someone else.

Officers' use of delegated powers:

- (2) Officers do not have to use their delegated powers: they can ask the person or body that delegated the power to them to make a decision, or refer the matter to the relevant Committee.

Officers who have had something delegated to them can authorise Officers they line manage to do it on their behalf (unless it was delegated on condition that they do it themselves).

### **6.2 Interpreting The Rules On Delegation**

- (1) When the Leader has delegated a responsibility in this Scheme of Delegation, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).
- (2) Without prejudice to the generality of (1) above, this includes the authority to sign all necessary documents, determine applications, authorise payments, authorise prosecutions, implement national agreements, issue and serve statutory and other notices, authorise entry to land in pursuance of statutory powers, and take default actions under relevant legislation if:
  - (a) the Constitution or the law does not require the action to be taken by someone else; and
  - (b) the decision maker has had regard to any advice from the Chief Finance Officer and the Monitoring Officer.

### **6.3 Responsibilities Not Covered By This Scheme**

If an executive responsibility does not have to be carried out by the Cabinet, an individual Cabinet member or a Committee and no one has budgetary and management responsibility for it, the Leader will arrange for it to be carried out by the Cabinet, a Committee or an Officer.

Signature ..... Date .....

Councillor .....

Leader of Thanet District Council