

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:

- (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the district.

To help clarify what should be included as a key decision in this document, Thanet District Council has set the following thresholds:

Type of Decision	Threshold	Key Decision?
(a) Decisions involving expenditure within relevant budget approved by Council.	None	No, unless significant effect on communities (i.e. it affects two or more wards or has a very significant impact within one ward)
(b) Decisions involving expenditure in excess of relevant budget approved by Council.	Any excess which exceeds the FPR virement rules.	Yes, if above threshold. If at or below threshold, a key decision if significant effect on communities (as above).

(c) Decisions on cash flow, investments and borrowings.	None.	No, unless significant effect on communities (as above).
(d) Decisions to make savings.	None.	No, unless significant effect on communities (as above).

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 in 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

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;

Portfolio Holder for Operational Services

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

Portfolio - Financial Services and Governance

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.

C. Portfolio - Port and Harbours, Ramsgate Regeneration and Planning

Scope of Portfolio:

To lead policy development and advise the Cabinet on:

1. Corporate Plan;
2. Media, PR and Communications;
3. Strategic Planning, Planning Policy and the Local Plan;
4. Major Strategic Projects;
5. Port and Harbours;
6. Corporate Performance and Risk

D. 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.

E. Portfolio - Operational Services

Scope of Portfolio

To lead policy development and advise the Cabinet on:

1. Parking (including civil parking enforcement);
2. Waste management, recycling and street cleaning;
3. Streetscene enforcement (including fly-tipping);
4. Parks including playgrounds and green spaces;
5. Cemeteries and crematoria;
6. Public conveniences;
7. Management of the foreshore;
8. Environmental Health;
9. Strategic Licensing

F. Portfolio - Financial, Administration and Community Wealth Building

Scope of Portfolio:

To lead policy development and advise the Cabinet on:

1. Finance including revenue and capital for general fund and HRA budgets preparation and monitoring;
2. Medium Term Financial Strategy;
3. Treasury Management;
4. Housing and Council Tax Benefits and Revenues (including Debt Recovery);
5. Community Wealth Building;
6. Information and Communications Technology;
7. Customer Services;
8. Information, records and data management and strategy;
9. Member Training and Development

G. Portfolio - Housing and Community Services

Scope of Portfolio

To lead policy development and advise the Cabinet on:

1. Community Safety (including the Community Safety Partnership);
2. The Margate Task Force Board;
3. Health and wellbeing, recreation and leisure;
4. Private Sector Housing (including the Margate Housing Intervention Programme);
5. Housing Strategy;
6. Homelessness;
7. Housing landlord services;
8. Democracy and Governance

H. Portfolio – Corporate Estates and Economic Development

Scope of Portfolio:

To lead policy development and advise the Cabinet on:

1. Regeneration and economic development;
2. Climate Emergency Response;
3. Tourism and beach management;
4. Corporate property and land;
5. Facilities management;
6. Building control;
7. Heritage and Museums

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