



Brighton & Hove City Council

DRAFT SCHEME OF DELEGATIONS FOR CABINET

I, _____, having been appointed Leader of the Council hereby confirm that I have approved the attached scheme of delegations for executive functions and that these delegations will come into force with immediate effect.

Signed.....

Leader of the Council
19 May 2011

PART 4.1 LEADER & CABINET – GENERAL

1. Role

The Executive consists of a Leader and Cabinet. The Executive shall carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

2. Form and composition

The Executive shall consist of the Leader of the Council (who shall be the Chair of the Cabinet) and between two and nine Councillors appointed to the Cabinet by the Leader.

3. Leader of the Council

The Leader shall be a councillor elected by the Council. The Leader holds office until the annual Council meeting following the next local elections providing that he/she shall cease to be Leader if any of the following takes place:

- a) He/she resigns from the office; or
- b) He/she is suspended from being a councillor under Part 111 of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c) He/she is no longer a councillor; or
- d) He/she is removed from office by resolution of the Council, or
- e) He/she is otherwise disqualified by law.

If the Leader ceases to hold office before the end of his/her term, the Council shall elect a new Leader, who shall hold office until the annual Council following the next local elections, or until one of the events described in a) to e) above occurs. Until such time as the new Leader is elected, the Deputy Leader (Executive) shall assume the role of the Leader.

No resolution to remove the Leader may be passed unless it complies with the requirements of Rule 25 of the Council Procedure Rules.

4. Other Cabinet Members

Appointment: Only Councillors may be appointed to become Cabinet Members. Subject to the legal minimum and maximum, the size and composition of the Cabinet is a matter solely for the Leader to decide. He/she may choose to appoint councillors from any political group or those not in any political group. The Cabinet need not reflect the overall political composition of the Council. The Leader must report his/her appointments to the Chief Executive immediately they are made and to the next meeting of Full Council. The appointment of Members to the Executive shall be effective immediately the notification is received by the Chief Executive.

Removal of Cabinet Members: Cabinet Members shall hold office until:

- a) they resign from office; or
- b) they are suspended from being councillors under Part 111 of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- c) they are no longer councillors; or
- d) they are removed from office, either individually or collectively, by the Leader, or
- e) they are otherwise disqualified by law.

Before a decision to remove a Member from the Cabinet shall take effect, the Leader must inform the Council's Chief Executive in writing that he/she has decided to remove the Member from office and the date upon which such removal is to take effect. The removal of the Cabinet Member shall take effect on the date specified in the notice or, if no date is specified, on the date that the notice is received by the Chief Executive.

The notice must also state the identity of any newly appointed member of the Cabinet and, if appropriate, any consequential amendment to the scheme of delegation to Cabinet Members under Part 4 of the Constitution.

The Leader must report his/her decision to remove a Cabinet Member to the next meeting of Full Council and at that meeting the Leader must inform the Council of the identity of the new Executive Member who shall succeed the outgoing Member and, if appropriate, any amendment to the scheme of delegation in part 4 of the Constitution.

5. Deputy Leader

The Leader may appoint one of the Cabinet Members to be Deputy Leader (Executive). Any Member appointed as such shall be able to

exercise the functions of the Leader when the Leader is unavailable or unable to act. Any exercise of functions by the Deputy Leader (Executive) shall be subject to any limitations, qualifications or other instructions as may be issued by the Leader either generally or in relation to the exercise of particular functions. The Deputy Leader (Executive) shall be subject to the same conditions as to appointment and dismissal as apply to any Cabinet Member.

(Note that under current arrangements, the Council may appoint a Non-Executive Deputy Leader which shall not operate as an appointment under Schedule 1 of the Local Government Act 2000 and such a person may not exercise any of the functions of the Leader which are executive functions.)

6. Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

7. Responsibility for functions

The Leader shall maintain a list in this Constitution setting out which individual members of the Cabinet (see Part 4), committees of the Cabinet (see Part 4), Officers (see Part 7) or joint arrangements (see Part 5) are responsible for the exercise of particular executive functions.

8. Role of Leader of the Council

All executive functions of the Council are vested by law in the Leader of the Council. He/she therefore has overall responsibility for the discharge of all executive functions.

The Leader shall have overall responsibility at the political level in relation to setting corporate priorities and strategic policy direction. He or she shall be its principal spokesperson on corporate and strategic issues.

The Leader shall chair the Cabinet and guide its work, ensuring coherent direction and action and that, where relevant, proposals are made to Full Council for decision within appropriate timescales.

The Leader shall provide political direction to the Chief Executive and other officers on the overall corporate priorities and objectives set by

Full Council and ensure coherent action by the Council both internally and externally.

He/she shall share in the responsibilities of the Cabinet and have the responsibilities of an individual member of the Cabinet, with a specific portfolio of responsibilities as shown in part 4 of the constitution. This shall be without prejudice to the powers of the Leader to exercise all executive powers.

The Leader shall appoint, suspend or remove Cabinet Members as necessary and determine the arrangements for the discharge of executive arrangements.

Miscellaneous roles: The Leader shall:

- work closely with other Cabinet Members to ensure the development of effective policies, and high quality services to the City;
- work with the relevant Cabinet Members in developing revenue budget and capital programme strategies and ensuring probity and financial monitoring;
- developing, in consultation and partnership with others, a strategy for promoting the social, economic and environmental well-being of the area; enhancing partnership working and public consultation and participation, as well as developing a public relations/corporate information strategy;
- guide policy and strategy proposals through the Council where the final decision rests with the Council;
- in consultation with the Chief Executive and the Monitoring Officer, to draw up a four month forward programme of Cabinet business and to keep it under review;
- act as an ambassador for the Council;
- maintain professional working relationships and establish mutual respect with the Chairmen of the Council's regulatory and overview and scrutiny committees, and with all other Members and officers;

- be a promoter and upholder of equalities throughout the City and high standards of ethical conduct by the Council's Members and officers.

9. Role of Cabinet Members

The following roles are allocated to all Cabinet Members:

To work with the Leader and other members of the Cabinet to ensure coherent direction and action by the Council, acting in accordance with Council decisions and, as part of that, to ensure that the Cabinet is informed of events, activities and proposals and involved in all decisions which should be taken collectively. In pursuance of this:

- i) to play a leading role in the management of the Council and decisions about the services it provides and how they are provided, with a view to achieving excellence in the provision of council services;
- ii) to participate, with other members of the Cabinet, in consideration of steps to revitalise local democracy through increased public consultation and participation; ensure high quality services; strengthen the Council's ethical framework; and enhancing, in partnership with others, the Council's community leadership role;
- iii) to provide political leadership on the activities relating to the Cabinet Member's portfolio;
- iv) to provide political leadership to the Chief Executive and other relevant officers on matters relating to the Cabinet Member's portfolio or those activities in respect of which it has been agreed that the councillor should lead; to advise the Cabinet on them and to steer policy developments or changes and other proposals for action requiring the approval of the Council. In so doing, the councillor shall have regard to the overall corporate priorities and objectives set by Full Council and the need for coherent action by the Council both internally and externally;
- v) to exercise executive functions delegated to Cabinet Members by the Leader as set out in Part 4.2 of the Constitution;
- vi) in relation to the Council's Corporate Plan, Cabinet Members shall:
 - a) agree corporate priorities and objectives for consideration by Full Council;

- b) monitor performance against the Plan;
 - c) review annually the priorities and objectives in the Plan;
 - d) prepare an annual report on the performance achieved by the Council during the previous year.
- vi) to participate with the other Cabinet Members in:
- a) setting guidance which should be given to the Council on the way in which budgets should be prepared, overall budget priorities and the assumptions which should be made in preparing budgets, having regard to the Council's overall corporate priorities and objectives as set out in the Plan; and to recommend to Full Council an annual budget and a three year medium term financial strategy for planning purposes;
 - b) developing a strategy for promoting the well-being of the area and a sense of direction for its communities;
 - c) monitoring the organisation and management processes of the Council to ensure that they continue to meet the needs of the City and to advise the Council on any recommendations for change;
 - d) agreeing a public relations/corporate information strategy and participate in its implementation.
- viii) to encourage and participate in working with partners and other organisations involved in the provision of services which link with those provided by the Council or which have an interest in or contribute to the well-being of Brighton & Hove or communities within it;
- ix) to act as an ambassador for the Council, promoting its work (particularly in those areas relevant to the Cabinet Member's portfolio or where the Cabinet Member has been designated by the Leader to lead or take a special interest) and participating in consultation, listening to, and taking account of, the views of organisations, the public and businesses;
- x) to keep in touch with the views of councillors and take them into account in reaching decisions and, with other Cabinet Members, to consider how Cabinet thinking on strategy and policy issues can best be shared with councillors as it develops;
- xi) within the prescribed timescale, to provide information required by an overview and scrutiny committee (see part 6.1, paragraph 15), and, where requested, to appear before such a committee;

- xii) to fulfil the roles set out in paragraph 2.03 in Article 2 of the Constitution.

PART 4.2. RESPONSIBILITY FOR FUNCTIONS

A. Leader of the Council

General Functions

To exercise any function which is designated as an executive function under the law or under the Council's Constitution.

[N.B. Section 14 of the Local Government Act 2000 (as amended) vests all executive functions in the Leader, who may delegate them to the Cabinet, a committee of the Cabinet, individual Cabinet Members, officers or joint committees. Any such delegation is without prejudice to the Leader's ability to exercise these powers notwithstanding the delegation].

Specific Functions

- To determine the appointment and dismissal of Cabinet Members, their portfolios and the scheme of delegations for executive functions.
- The formulation, co-ordination and implementation of corporate policies and strategies and making decisions relating to such matters to the extent that they are not reserved to Full Council.
- To chair Cabinet meetings and major partnerships as necessary and ensure the efficient despatch of business consistent with the Council's policies and strategies.
- To be the lead spokesperson for the Council and deal with external relations with partners and other stakeholders.
- To represent the Council in national and regional negotiations and consultations.
- To lead on consultation and other liaison with local communities.
- Overall responsibility for the performance framework, including the monitoring of targets.
- To lead and co-ordinate the Council's work on key cross-cutting policy areas such as equalities, sustainability and communications.

- To deal with any executive function not specifically delegated to another member of the Cabinet.

B. The Cabinet

- 1.1 After the Leader, the Cabinet will operate as the highest executive decision-making body. The following functions shall be discharged by the Cabinet:
- (a) the formulation and submission to Full Council of all plans and strategies that form part of the policy framework.
 - (b) the development, formulation and submission to Full Council of the budget.
 - (c) Any matter which the Cabinet, having regard to the forward plan, decides should be dealt with by the Cabinet.
 - (d) Any matter which the Leader decides should be dealt with by the Cabinet.
 - (dA) Any matter which is delegated to a Cabinet Member for whom no separate Cabinet Member meetings are scheduled
 - (e) Any matter which is delegated to a Cabinet Member, and that Councillor decides to refer the matter to the Cabinet.
 - (f) Any matter which straddles the portfolios of 2 or more Councillors and, in the opinion of the Leader or the Monitoring Officer, is more appropriately dealt with by the Cabinet.
 - (g) Any executive function which is not specifically delegated to a Cabinet Member under this scheme of delegations.
 - (h) Approval of the Council's Risk Management Strategy.
 - (i) Any matter which, under the Council's Financial Standing Orders, Contract Standing Orders or other Council rules, requires the approval of the Cabinet.
- 1.2 When referring or reserving a matter to the Cabinet under sub-paragraphs (c) (d) (e) of paragraph 1.1 above, the Leader or, as

the case may be, the Cabinet Member may do so on a one off basis or as part of a general/ standing arrangement.

C: FINANCE AND CENTRAL SERVICES

Delegated Functions

To exercise the functions of the Council as follows:

Finance

- (a) Advising the Leader and Cabinet on budget strategy and the medium term financial plan;
- (b) Reviewing financial management arrangements and performance;
- (c) Reviewing arrangements for securing value for money and efficiency in the use of the Council's resources;
- (d) Reviewing treasury management arrangements and performance;
- (e) Considering reports on financial matters as may be agreed between the Cabinet Member and the Chief Finance Officer and advise the Leader or the Cabinet as appropriate;
- (f) Making decisions or granting authorisations on expenditure in accordance with the requirement of Financial Standing Orders;
- (g) Making decisions on matters which, in the opinion of the Cabinet Member, on the advice of the Chief Finance Officer, are not significant enough to be referred to the Cabinet;
- (h) To provide Member leadership to the finance function.

Central Services

All functions regarding the delivery and performance of the Council's support services, in particular:

- Finance
- Property and Design

- ICT
- City Services (except libraries)
- Corporate Procurement
- Legal and Democratic Services
- Policy, Analysis and Performance
- Communications
- Human Resources and Development

To discharge all functions regarding the establishment of joint working with other authorities, including the establishment of any shared services arrangements.

To receive reports on resourcing, structuring and capacity building in support services and take action as appropriate.

The Council's functions regarding ICT providing that this shall not include approval of the ICT Strategy.

To approve the Council's Planned Property Maintenance Programme.

The acquisition or disposal of properties held centrally or by service areas relating to 2 or more Cabinet Members, up to the value of £1 million providing that the Leader is notified in advance and has no objection. *

The award of contracts relating to Central Services or those that are Corporate (i.e. not specific to individual services such as corporate stationary, cleaning etc contracts). *

The Council's functions relating to City Services (except libraries)

[NB.* These delegations will not preclude contracts, property or other issues of major significance being referred to Cabinet in accordance with the normal rules.]

D. TRANSPORT AND PUBLIC REALM

Highways Management

To exercise the Council's functions in relation to all highways matters and as highway authority, street authority, bridge authority, including but not limited to highways, bridges, private streets and rights of way.

Traffic Management and Transport

- (a) To manage the provision of transport services for service departments including home-school transport and transport for social services;
- (b) To exercise the Council's functions in relation to traffic management and transport and as traffic authority, including but not limited to public passenger transport and the co-ordination of transport for service users;
- (c) To consider and make decisions on proposed traffic orders and rights of way issues where objections have been received and not withdrawn or otherwise resolved;
- (d) To exercise the Council's powers regarding travel concessions.

Parking

To exercise the Council's functions in relation to parking, including on and off street parking and decriminalised parking.

Public Realm

To exercise the council's functions regarding spaces to which the public have rights of access and consisting of the highway, street furniture on the highway and open spaces or part of open spaces immediately adjacent to the highway to which the public have access.

E: ENVIRONMENT AND SUSTAINABILITY

Parks and Green Spaces

To exercise the Council's functions in relation to Parks and Open Spaces to the following extent:-

- (a) provision, management and control of parks and open spaces (except those held for housing purposes);
- (b) making countryside management arrangements in liaison with the Sussex Downs Conservation Board (or any successor body) and other environmental bodies;
- (c) provision, management and control of allotments and smallholdings.

Travellers and Gypsies

To exercise the Council's functions in relation to travellers and gypsies including the management of authorised sites.

Waste

To exercise the Council's functions in relation to waste and as waste collection authority, waste disposal authority and litter authority, including dealing with litter, street cleansing, abandoned vehicles and dog fouling.

Coast Protection

To exercise the Council's functions as a coast protection authority.

Seafront

To exercise the Council's functions regarding the esplanade, beach and foreshore.

Sustainability

To co-ordinate the Council's role and response to cross-cutting sustainability issues such as reducing carbon emissions, projections of a changing climate locally, improving resource efficiency and developing sustainable energy.

F: COMMUNITIES, EQUALITIES AND PUBLIC PROTECTION

Public Safety

Civil Contingencies

To exercise the Council's functions in relation to emergency planning and business continuity, including the Council's functions under the Civil Contingencies Act 2004.

Environmental Health

To exercise the Council's functions in relation to environmental health, air pollution control, health and safety at work (except in so far as it relates to the Council as an employer) public conveniences, food safety, control of nuisances, including noise control and control of dogs.

Trading Standards

To exercise the Council's functions regarding trading standards, including but not limited to consumer protection, product safety, fair trading, metrology, food standards and animal health;

Licensing

To exercise the licensing functions of the Council to the extent that they are executive functions, including the formulation and development of the Statement of Licensing Policy and Statement of Gambling Policy prior to their adoption by Full Council.

Community Safety

To co-ordinate the Council's functions regarding the police and public safety and to take such action as is necessary, including:

- (i) making consultative arrangements under the Police Act 1996;
- (ii) drawing up community safety plans;
- iii) co-ordinating the Council's functions under the Crime and Disorder Act 1998 including the formulation, with other responsible authorities, of strategies for reducing crime and disorder and the making of child curfew schemes providing that this shall not include the adoption of the Crime and Disorder Reduction Strategy.

Communities

To co-ordinate and lead on the Council's functions in connection with community engagement and voluntary organisations.

To co-ordinate and lead on the Council's functions in relation to Equalities and Inclusion

Public Health

To coordinate and make arrangements for the exercise of the Council's functions in relation to public health, for example in relation to:-

- Sexual health;
- Physical Activity, Obesity, tobacco control Programmes;
- Prevention and early detection;
- Children's public health;
- Immunisation; Public Mental Health;
- NHS Healthcheck and Workplace Health Programmes;
- Dental Public Health; Social Exclusion; Seasonal Mortality.

F: PLANNING, EMPLOYMENT, ECONOMY AND REGENERATION

Planning

To exercise the planning functions of the Council to the extent that they are executive functions, including the formulation and development of the Local Area Framework prior to its adoption by Full Council.

Economic Growth and Regeneration

- (a) The Council's functions and partnerships regarding the promotion of economic growth and the establishment and development of business.
- (b) Promoting and developing the economic fundamentals of the City (on occasions with other Cabinet Members) in areas such as adult skills, productivity, development sites etc.

Major Built Environment Projects

- (a) To oversee the progress of major projects (including major building, infrastructure or other projects involving the erection or significant alteration of major permanent structures or landmarks) undertaken by the Council, and advise the Leader or the Cabinet as appropriate.
- (b) To review major projects and any project Boards having regard to capacity to deliver, corporate priorities and resources, and advise the Leader or the Cabinet as appropriate.

Conservation and Design

To exercise the Council's functions in relation to Conservation and Design including the Hove Borough Council Act 1976

Building Control

To exercise the Council's functions regarding building control.

Council Business Liaison

To oversee the agenda planning and timetabling of decision-making meetings.

To ensure the efficient dispatch of council business by co-ordinating decision-making and by facilitating liaison between the executive, non-executive members and officers.

To ensure that the Council's business and decision-making is conducted having regard to the principles set out in Article 11 of the Constitution, namely:

- proportionality
- due consultation and taking of professional advice from officers
- respect for human rights
- presumption in favour of openness, and
- clarity of aims and desired outcomes.

G: HOUSING

Delegated Functions

To discharge the Council's functions as a local housing authority and, without prejudice to the generality of this paragraph, to discharge the specific functions set out in the following paragraphs.

Strategic and Private Sector Housing

To discharge the Council's functions in relation to:

- (a) The Council's housing strategy, including the housing investment programme (providing that the final adoption or approval of the housing improvement programme shall be referred to Full Council);
- (b) Homelessness and the allocation of housing;
- (c) Private sector housing, including taking action to remedy overcrowding, disrepair, unfitness and statutory nuisances; to promote fire safety in private sector housing and the Council's functions in relation to houses in multiple occupation;
- (d) Tenancy relations and the provision of housing advice;
- (e) Housing loans and grants.

Housing Landlord Functions

To discharge the Council's functions as a housing landlord including the management of property within the Housing Revenue Account and associated properties.

Supporting People

To discharge the Council's functions for supporting people under Section 93 Local Government Act 2000 (grants for welfare services).

H: CHILDREN AND YOUNG PEOPLE

Explanatory Note

The Cabinet Member for Children & Young People is responsible for education and children's health and social services, including services to young people up to the age of 19. Most of these services are delivered jointly with the Health Service – (see Part 5.2 of the Constitution for details of the Children's Trust Board).

Delegated Functions

To be the Lead Member for Children's Services in accordance with the Children Act 2004.

To exercise all the Council's functions comprised in the Section 75 agreement with Brighton & Hove Primary Care Trust and Sussex Community NHS Trust in relation to children's services.

To exercise the functions of the Council:

- as a Local Education Authority under any enactment relating to education, youth services and the employment of children;
- in relation to educational charities;
- in partnership arrangements with other bodies connected with the delivery of education;
- in relation to social services for children and young people;
- in partnership arrangements with other bodies connected with the delivery of services for children, young people and families;
- regarding families in connection with the functions set out above or where there are no other arrangements made under this scheme of delegation.

I: ADULT SOCIAL CARE AND HEALTH

Explanatory Note

The Cabinet Member for Adult Social Care and health is responsible for adult social services and joint delivery of a number of social care and health services with the Health Service - see Part 5.2 of the Constitution for details of the Joint Commissioning Board which oversees these arrangements.

Delegated Functions

1. Adult Social Services

- (a) To exercise the social services functions of the Council in respect of adults;
- (b) To exercise all of the powers of the Council in relation to the issue of certificates to blind people; the issue of badges for motor vehicles for disabled people and the grant of assistance to voluntary organisations exercising functions within its area of delegation;
- (c) To exercise the functions of the Council in relation to the removal to suitable premises of persons in need of care and attention.

2. Partnership with the Health Service

To exercise the Council's functions under or in connection with the adult services partnership arrangements made with health bodies pursuant to Section 75 of the National Health Service Act 2006 ("the section 75 Agreement").

3. Learning Disabilities

To discharge the Council's functions regarding Learning Disability.

Note

All the above functions shall be exercised subject to any requirements in the Section 75 Agreement..

J: CULTURE, RECREATION AND TOURISM

Explanatory Note

The Cabinet Member for Culture will deal with the Council's functions in relation to culture, arts and heritage; tourism and marketing; libraries and museums; events; and leisure, sports and recreation.

Delegated Functions

To discharge the Council's functions in relation to the following:

1. Culture, Arts and Heritage

Culture, including arts and heritage and, without prejudice to the generality of the foregoing, the exercise the Council's functions in respect of arts, entertainment and cultural activities.

2. Tourism & Marketing

Tourism, marketing and conferences.

3. Libraries and Museums

Libraries, museums, art galleries, historic buildings and their gardens and the functions of the Council regarding public records.

4. Events

Events, including the annual programme of entertainment events (providing that if the relevant Strategic Director, or other officer with delegated powers, is of the view that the event is a major event or has corporate budgetary or policy implications the matter shall be referred to the Cabinet).

5. Leisure, Sports and Recreation

The provision and management of leisure, sports and recreation facilities.

PART 4.2A SUSTAINABILITY CABINET COMMITTEE – TERMS OF REFERENCE

Explanatory Note

The purpose of the Sustainability Cabinet Committee is to make decisions or recommendations to Cabinet on sustainability issues that are not the sole responsibility of other Cabinet members, e.g.

- *environmental management within the council itself*
- *the council's role in, and response to cross-cutting issues like reducing carbon emissions, projections of a changing climate locally, improving resource efficiency, developing sustainable energy etc.*

Membership

The membership of the Sustainability Cabinet Committee will be as follows:-

- The Leader of the Council (Chair);
- The Cabinet Member for Environment and Sustainability;
- The Cabinet Member for Planning, Employment, Economy and Regeneration

The Leader of the Council may co-opt other Cabinet Members on to the Cabinet Committee when issues arise and decisions need to be taken that coincide with their portfolios.

The Deputy Leader of the Council with the lead role on sustainability will routinely be invited to attend the committee, providing a link to the work of the city Sustainability Partnership.

Role

The Sustainability Cabinet Committee may receive any report relating to sustainability issues for a decision or for recommendation to Cabinet for a decision, where appropriate.

