

# Solihull Metropolitan Borough Council

## Arrangements for the Allocation of Cabinet Functions

And

## Scheme of Delegation to Cabinet Portfolio Holders

Approved by Councillor Meeson, Leader of the Council on 06 June 2013

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# Solihull Metropolitan Borough Council

## Arrangements for the Allocation of Cabinet Functions

### Introduction

The Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 provides that any functions which are executive functions which are the responsibility of a leader and cabinet executive may be discharged by the Leader or the Leader may arrange for those functions to be discharged by the Cabinet, another member of the Cabinet, a committee of the Cabinet or by an officer of the Council.<sup>1</sup> This replaces the provision in the Council's executive arrangements and Article 7.06 of the Constitution.

This is the Leader's delegation scheme which makes provision for delegation of functions.

### Statutory Provisions for Discharge of Executive Functions

The Leader may exercise any executive function himself or may arrange for such functions to be exercised by the Cabinet, a Cabinet Member, a committee of the Cabinet or an officer. The Leader's officer delegation scheme is contained in a separate document.

Where functions are discharged by the Cabinet then unless the Leader otherwise directs the Cabinet may arrange for the discharge of those functions by a committee of the Cabinet or by an officer.

Where functions are discharged by a Cabinet Member then unless the Leader otherwise directs the Cabinet Member may arrange for the discharge of those functions by an officer of the Council.

Where functions are discharged by a committee of the Cabinet then unless the Leader otherwise directs the committee may arrange for the discharge of those functions by an officer of the Council.

Any arrangements made by the Leader, the Cabinet, Cabinet Member or committee for the discharge of any functions by the Cabinet, Cabinet Member, committee or officer do not prevent the Cabinet, Cabinet Member or committee by whom the arrangements are made from exercising those functions.

The Leader of the Council has made arrangements for the Cabinet functions set out below to be exercised as follows:-

#### **(A) Functions to be exercised by the Full Cabinet:**

- (1) The appropriation of land or other property from one statutory purpose to another;
- (2) The acquisition of Strategic Land (being land which the Council needs to acquire to achieve or safeguard its existing development plan policies or which needs to be acquired for planning or public purposes including acquisition in advance of requirements) not within the budget allocation relating to a single Member of the Cabinet provided that in cases of extreme urgency this function be reserved to the Leader of the Council;
- (3) Submissions made to Government Departments and other public bodies in respect of capital expenditure;
- (4) The institution or prosecution (but not the defence) of proceedings in the High Court or Superior Court in relation to Cabinet functions except where delegated to officers and recovery of possession of Council properties;

<sup>1</sup> Section 14 Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007 (in force 30<sup>th</sup> December 2007).

- (5) The submission of evidence to Royal Commissions, departmental committees or similar bodies and expression of views on reports of those bodies;
- (6) Approval to establish partnership or joint venture arrangements with any other body;
- (7) Approval of budget estimates and the recommendation to the Council in respect of the proposed budget;
- (8) Approval of the capital expenditure programme;
- (9) Approval of any statutory or non-statutory policy plan to be recommended for approval by the full Council;
- (10) To respond to applications affecting the Borough made under the Transport and Works Act 1992;
- (11) Approval of strategy/policy documents including Local Development Framework;
- (12) Approval of consultation responses of strategic planning applications of neighbouring authorities.
- (13) Final approval to the closure, reorganisation or reduction in size of schools or other institutions maintained by the Council;
- (14) Final approval for the establishment of new schools or other educational institutions or the enlargement of such bodies; and
- (15) Determination of rents for housing accommodation provided by the Council.
- (16) Any decision by a single member of the Cabinet or a committee of the Cabinet or an officer which is subject to call in by an Overview and Scrutiny Board where the original decision maker is not prepared to change the decision.

Where any executive matter requires the approval of the Council a recommendation to Council shall be made only by the full Cabinet meeting together.

**(B) Functions which may be exercised individually by all Members of the Cabinet**

- (1) Acquisition, disposal and appropriation of strategic land (as defined in paragraph A.(2) above) for the purpose of statutory functions for which a Cabinet Member is responsible subject to the proposal not being determined as a matter of urgency and the expenditure being within the approved budget allocation. Consultation on proposed acquisitions to be undertaken with the Cabinet Member responsible for Economic Development and Regeneration. (Note: Officers also have delegated powers for acquisition and disposal of certain categories of land;
- (2) Acquisition, disposal and appropriation (including release of covenants) of any operational land within the responsibility of an individual Cabinet Member;
- (3) The determination of charges for services in accordance with the approved budget and policy framework;
- (4) The well being powers contained in Part I of the Local Government Act 2000 as they relate to the area of responsibility of a Cabinet Member;
- (5) Decisions in relation to the organisation and structures of Council staff including structures other than matters the responsibility of the Chief Executive as the Head of Paid Service and the Governance Committee;
- (6) Enforcement powers under the Anti-social Behaviour Act 2003 as they relate to functions falling within the responsibility of an individual Cabinet Member;
- (7) Delegation of a function under primary legislation referred to in this delegation scheme includes delegation of responsibility for all associated secondary legislation;
- (8) Functions delegated under the Anti-social Behaviour Act 2003 are subject to co-ordination by the Cabinet Member for Community Cohesion and Partnerships;
- (9) Decisions falling within the scope of a Cabinet Member's delegation in relation to the Sustainable Communities Act 2007; and
- (10) Functions falling within the scope of a Cabinet Member's delegation in relation to any Council duties in respect of carbon reduction obligations of the Council.

**(C) Matters Reserved to Leader**

- (1) Any executive function not allocated to an individual Cabinet Member or officer under these arrangements shall be determined by the Leader of the Council;
- (2) Strategic overview of Corporate Parenting responsibilities for looked after children and provision of advice to relevant Cabinet Members; and

- (3) Decisions in relation to emergencies and disasters, including decisions in accordance with the Civil Defence Act 1948 and the Civil Contingencies Act 2004;
- (4) Decisions on recommendations from the Procurement Board – such decisions to be made by the Leader in consultation with the Investment Panel.
- (5) Decisions to acquire and dispose of land for planning and regeneration purposes for the achievement of the Council's policy framework (subject to consultation with the Cabinet or individual Cabinet Members where transactions have implications for matters for which other Members of the Cabinet are responsible;
- (6) Decisions in relation to the overall policy of operation of the main Council House and Civic Suite;
- (7) Approval of policies in relation to E-Government, Data Protection, Freedom of Information Act and Environmental Information Regulations;
- (8) The use and display of the Council's Armorial Bearings;
- (9) Decisions required as shareholder of Birmingham International Airport (subject to decisions on major restructuring or sale of shares being referred to the Cabinet); and
- (10) Decisions on matters requiring an executive decision referred from the Governance Committee.

**(D) Deputy Leader**

The Member of the Cabinet appointed by the Leader as Deputy Leader shall in the absence or inability of the Leader to act have power to take any decision on behalf of the Leader.

**(E) Functions allocated to the Cabinet Member for Education, Children and Young People**

- (1) The functions of the Council as Local Education Authority (other than the functions of approving the closure, reorganisation or reduction in size of schools or other institutions maintained by the Council and the establishment of new schools or other educational institutions or the enlargement of such bodies, final decisions on which shall be taken by the Cabinet);
- (2) The Council's functions under the following legislation (when in force):-
  - the Local Authority Social Services Act 1970;
  - Children and Young Persons Act 1933
  - the Children Act 1989;
  - the Children Act 2004;
  - Part VI of the Care Standards Act 2000;
  - The Childcare Act 2006;
- (3) The Lead Member function under Section 19 of the Children Act 2004;
- (4) Functions under Part 3 (Parenting orders) of the Anti-social Behaviour Act 2003;
- (5) Decisions in relation to implementation of proposals for a Children's Trust (subject to Cabinet approval of principles);
- (6) Decisions in relation to transforming secondary education and "Building Schools for the Future"; and
- (7) Functions in relation to the youth service.

**(F) Functions allocated to the Cabinet Member for Health & Wellbeing**

- (1) All functions under the Local Authority Social Services Act, 1970, or by any other Act, and any other function of the Council which is a personal social service relating to adults including arrangements for commissioning of adult care services including functions under:-
  - Carers (Recognition and Services) Act 1995;
  - Community Care (Delayed Discharges) Act 2003
  - Carers (Equal Opportunities) Act 2004;
  - Mental Capacity Act 2005; and
  - Partnerships functions under the Health Act 1999 relating to adult care;
  - Trusts and Partnership Arrangements under the Health and Social Care Act 2001;

- (2) The determination of hardship applications in respect of Disabled Facilities Grants under the Chronically Sick and Disabled Persons Act 1970
- (3) The executive functions of the Council under the Public Health (Control of Disease) Act 1984
- (4) All functions under the Health and Social Care Act 2012 pertaining to the Council's public health responsibilities including authority to determine the allocation of the Public Health Grant

**(G) Functions allocated to the Cabinet Member for Environmental and Community Services**

- (1) Decisions on licensing matters requiring an executive decision referred from the Planning Committee or the Licensing Committee;
- (2) The executive functions of the Council in respect of the Local Government (Miscellaneous Provisions) Act 1976;
- (3) Disposal of lost and uncollected property;
- (4) Decisions in relation to the Council's Moat Lane Depot and stores in consultation with any other Cabinet Member affected)
- (5) Decisions relating to the implementation of sports and recreation plan;
- (6) Decisions in relation to the management of leisure facilities, subject to the general provisions of any Public/Private partnership Contract being approved by the Cabinet;
- (7) Tourism promotion and development;
- (8) The promotion of the arts within the Borough;
- (9) Archives and public records;
- (10) Management of the Library Theatre and Arts Complex;
- (11) The provision and maintenance of Museums and Art Galleries;
- (12) Responsibility for the operation of the Tourist Information Centre;
- (13) The functions of the Council as Library Authority and provision of a public library service;
- (14) The functions of the Council as waste disposal authority;
- (15) The functions of the Council as waste collection authority;
- (16) Decisions relating to street cleansing and grounds maintenance.
- (17) The functions of the Council in relation to sewerage, sewage disposal, land drainage, water supply and water courses;
- (18) Functions under the Water Industry Act 1991, Water Resources Act 1991, Clean Air Act 1993, Environment Act 1995, Environmental Protection Act 1990

**(H) Functions allocated to the Cabinet Member for Economic Development and Regeneration**

- (1) Decisions on the implementation of the Council's regeneration policies and the implementation of programmes for action including the implementation of proposals for regeneration of North Solihull and Chelmsley Wood Town Centre;
- (2) Decisions in relation to development or redevelopment of town centres in accordance with the Council's policy framework and any directions from the Cabinet or the Leader of the Council.
- (3) Decisions in relation to the functions of the Council as local planning authority under the Town and Country Planning Act 1990 (except non-executive matters).
- (4) The functions of the Council as Local Housing Authority and the other functions of the Council relating to public and private sector housing, under the relevant Acts (subject to significant decisions in relation to Housing Stock Transfer being referred as required to the Cabinet and full Council);
- (5) The powers and duties of the Council under the Rent Acts;
- (6) The powers and duties of the Council under the Housing Act 1988

- (7) Functions under Part 2 of the Anti-social Behaviour Act 2003 relating to housing functions;
- (8) Council functions delegated to Solihull Community Housing pursuant to Section 27 of the Housing Act 1985 (subject to the approval by the Cabinet of delegation and management arrangements);
- (9) Housing and economic development policy and delivery;
- (10) To authorise the opening of negotiations for the acquisition of any interest in land (subject to obtaining the approval of the Leader of the Council to the acquisition of any strategic site).
- (11) To respond to consultations on regional and sub-regional spatial strategies and on adjoining authorities' Local Development Frameworks
- (12) Approval of Local Development Framework Development and Supplementary Planning Documents
- (13) The making of grants for buildings in conservation areas, or for the planting of trees in connection with an approved scheme;
- (14) Designation of Conservation Areas and Local Nature Reserves: and agreement of Conservation Area enhancement schemes and nature conservation initiatives;
- (15) Section 72 of the West Midlands County Council Act 1980;
- (16) Enforcement of the Building Regulations;
- (17) Powers of the Council relating to the control and safety of development
- (18) Functions of the Council in relation to adult and community learning;
- (19) Matters relating to biodiversity and archaeology;
- (20) The functions of the Council in respect of carbon reduction (in consultation with other Cabinet members as appropriate).
- (21) Decisions in relation to grants and donations.

**(I) Functions allocated to the Cabinet Member for Transport & Highways**

- (1) Decisions relating to implementation of the Local Transport Plan;
- (2) All orders consents and approvals to be given by the Council as Highway Authority;
- (3) Functions under the Traffic Management Act 2004;
- (4) Matters connected with transport, including schemes for travel concessions, (except for the blind and disabled) and consideration of the reports and proceedings of the West Midlands Integrated Transport Authority;
- (5) Decisions on all matters relating to the Council's functions as highway authority under all legislation relating to highways and streets (except non-executive matters);
- (6) Decisions in relation to the provision and management of off-street car parks including civil enforcement of parking; and
- (7) Functions exercised by the Council as agent for DVLA in relation to untaxed vehicles.

**(J) Functions allocated to the Cabinet Member for Community Cohesion & Partnerships**

- (1) Matters and functions relating to neighbourhood management;
- (2) Community Safety and the implementation of the Crime and Disorder Act 1998;
- (3) The Anti-social behaviour strategy and co-ordination with other relevant Cabinet Members responsible for functions under the Anti-social Behaviour Act 2003;
- (4) Executive functions relating to the safety of sports grounds including the safety of stands under Section 39 of the West Midlands County Council Act 1980;
- (5) Functions under the Anti-social Behaviour Act 2003 including enforcement (other than enforcement function specifically allocated to another Cabinet Member
- (6) Decisions in relation to the Council's functions and responsibilities under the Regulation of Investigatory Powers Act 2000;
- (7) The Solihull Partnership, including the Solihull Sustainable Communities Strategy

The executive functions of the Council in respect of:-

- (8) Decisions in relation to the management of parks, allotments and open spaces subject to the general provisions of any Public/Private partnership Contract being approved by the Cabinet;
- (9) Burial or cremation of persons found dead in the area including the management of cemeteries, crematoria and burial grounds.
- (10) Weights and measures authority functions (including the Trades Descriptions Act);
- (11) Public health and environmental functions;
- (12) Control of Dogs;
- (13) Home Safety; and Pest Control
- (14) Slaughterhouses and slaughter of animals and poultry;
- (15) Condition and overloading of vehicles
- (16) Fertilisers and Feeding Stuffs;
- (17) Health Act 2006, including the following primary legislation and all regulations made thereunder:

- The Theft Acts;
- Game Act 1831
- Town Police Clauses Act 1847
- Burial Act 1857
- Game Licences Act 1860
- Dogs Act 1871
- Public Health Act 1875
- Dogs Act 1906
- Public Health Acts Amendment Act 1907
- Protection of Animals Act 1911
- Performing Animals (Regulation) Act 1925
- Public Health Act 1925
- Public Health Act 1936
- Cancer Act 1939
- National Assistance Act 1948
- Prevention of Damage by Pests Act 1949
- National Assistance (Amendment) Act 1951
- Pet Animals Act 1951
- Protection of Animals (Amendment) Act 1954
- Weeds Act 1959
- Abandonment of Animals Act 1960
- Caravan Sites and Control of Development Act 1960
- Public Health Act 1961
- Animal Boarding Establishments Act 1963
- Riding Establishments Act 1964
- Scrap Metal Dealers Act 1964
- Slaughter of Poultry Act 1967
- Agriculture (Miscellaneous Provisions) Act 1968
- Caravan Sites Act 1968
- Countryside Act 1968
- Riding Establishments Act 1970
- Criminal Damage Act 1971
- European Communities Act 1972
- Local Government Act 1972
- Breeding of Dogs Act 1973
- Control of Pollution Act 1974
- Guard Dogs Act 1975
- Dangerous Wild Animals Act 1976
- Protection from Eviction Act 1977
- Torts (Interference with Goods) Act 1977
- Refuse Disposal (Amenity) Act 1978
- Estate Agents Act 1979
- Highways Act 1980
- Animal Health Act 1981
- Wildlife and Countryside Act 1981

Zoo Licensing Act 1981  
 Local Government (Miscellaneous Provisions) Act 1982  
 Litter Act 1983  
 Pet Animals (Amendment) Act 1983  
 Animal Health and Welfare Act 1984  
 Building Act 1984  
 Food Act 1984  
 Public Health (Control of Disease) Act 1984  
 Road Traffic Regulation Act 1984  
 Business Names Act 1985  
 Housing Act 1985  
 Food and Environment Protection Act 1985  
 Protection of Animals (Amendment) Act 1988  
 Road Traffic Act 1988  
 Control of Pollution (Amendment) Act 1989  
 Dangerous Dogs Act 1989  
 Local Government and Housing Act 1989  
 Environmental Protection Act 1990  
 Food Safety Act 1990  
 Planning (Hazardous Substances) Act 1990  
 Town and Country Planning Act 1990  
 Breeding of Dogs Act 1991  
 Dangerous Dogs Act 1991  
 Deer Act 1991  
 Noise and Statutory Nuisance Act 1993  
 Criminal Justice and Public Order Act 1994  
 Sunday Trading Act 1994  
 Vehicle Excise and Registration Act 1994  
 Environment Act 1995  
 Goods Vehicles (Licensing of Operators) Act 1995  
 Dogs (Fouling of Land) Act 1996  
 Noise Act 1996  
 Party Wall etc Act 1996  
 Dangerous Dogs (Amendment) Act 1997  
 Crime and Disorder Act 1998  
 Breeding and Sale of Dogs (Welfare) Act 1999  
 Pollution Prevention and Control Act 1999  
 Protection of Animals (Amendment) Act 2000  
 Animal Health Act 2002  
 Fireworks Act 2003  
 Licensing Act 2003  
 Ragwort Control Act 2003  
 Christmas Day (Trading) Act 2004  
 Housing Act 2004 (private sector enforcement)  
 Clean Neighbourhoods and Environment Act 2005  
 Fraud Act 2006  
 Obscene Publications Act 1959

**(K) Functions allocated to the Cabinet Member for Resources**

- (1) All statutory functions relating to finance under the Local Government Finance Act 1992 (Council tax) (excluding such functions specifically reserved to the Cabinet and the Council) and the Local Government Act 2003;
- (2) All statutory functions in relation to collection of non-domestic rates under the Local Government Finance Act 1988;
- (3) Functions relating to the finances of the Council and its financial administration including capital expenditure and its financing, credit arrangements (including prudential borrowing), reserve funds and investments;



- (4) Decisions in relation to general grant aid to community groups and individuals;
- (5) Functions in relation to the Housing Revenue Account;
- (6) Executive Functions in relation to the Council's duties under equalities and diversity legislation;
- (7) Decisions in relation to insurance and risk management;
- (8) Decisions in relation to any asset of the Council not under the direct responsibility of another Member of the Cabinet (including appropriation, disposal and release of covenants);
- (9) Decisions in relation to commercial property (other than North Solihull Regeneration) in consultation if necessary with the Cabinet Member for Regeneration;
- (10) Decisions in relation to the management and letting of Council properties (other than Council dwellings in the Housing Revenue Account and properties used for the operational purposes of the Council) including property disposal in North Solihull;
- (11) Decisions in relation to corporate policies for charging and trading powers under the Local Government Act 2003;
- (12) Decisions in relation to the Council's responsibilities as an employer under the Health and Safety at Work etc. Act 1974 and under the Corporate Manslaughter and Corporate Homicide Act 2007;
- (13) Matters relating to the Magistrates' Courts and the Probation Service;
- (14) To approve the Information Technology Strategy for all services.