

Section Two — Scheme of Delegation

10.0 Delegation of Cabinet Functions

10.1 Key Decisions

10.2 In accordance with Article 13.4 the Leader, after consultation with Cabinet Members and Officers, will table at every meeting of the Cabinet a list of what they consider are key decisions and once this list has been approved such decisions shall not be taken other than by the full Cabinet.

10.3 Devon County Council Defines a Key Decision as

- any decision which would result in the closure of an amenity, externalisation or total withdrawal of a service;
- any decision in accordance with the Council's Financial Regulations (Part 9), involving financial expenditure of £1,000,000 or above, with the exception of operational expenditure by the Chief Executive identified within the approved budget and policy framework;
- any proposal to change the policy framework;
- any proposal which would have a significant effect on communities living or working in an area comprising two or more electoral divisions, unless this falls under the delegation or terms of reference of another Committee of the Council;
- any contract (or programme) which: exceeds an annual value of £1 million; and
- proposes significant changes to the Constitution Together with any other decision which the Monitoring Officer in consultation with the Leader and Head of Paid Service considers to be a key decision within the Regulations.

10.4 If Key Decisions are to be discussed with Council officers at a meeting of the Cabinet, the meeting will be open for the public to attend except where matters of a confidential or exempt nature are to be discussed.

10.5 The Cabinet has to make decisions which are in line with the Council's budget and policy framework. If it considers that a decision is required which is outside the budget or policy framework, it must refer the matter to the whole Council for a decision."

11.0 Delegation to Cabinet Members

- 10.1** Under the Local Government Act 2000, the Cabinet may delegate any of its functions to an individual Member of the Cabinet and the individual Member shall make decisions only in accordance with the guidance below.
- 10.2** A Cabinet Member may take any decision other than a key decision which is both within their remit (as set out in Paragraph 8.0 above) and within the policy and budget framework in Part 4 of the Constitution. An individual Member exercising their decision-making power shall not make any decision which the Cabinet would not be able to make either under legislation or under the Council's Constitution. No decision should be made, or which is not within budget, or a decision on a function which is reserved to the Council.
- 10.3** Two or more Cabinet Members may jointly agree to make a decision which is within their collective remits.
- 10.4** If a Cabinet Member has a Disclosable Personal Interest in any matter which is the subject of a proposed decision or is absent or otherwise unavailable to act the Leader or the Deputy Leader in the absence of the Leader may exercise all the powers delegated to that Member in paragraph 11.1.
 - 10.4.1** If a Cabinet Member has a conflict of interest (within the meaning described in the Cabinet Procedure Rules) in any matter which is the subject of a proposed decision by them then they may seek a dispensation from the Council's Monitoring Officer to remove that disability or the Leader or the Deputy Leader may exercise the powers delegated to that Member.
- 10.5** Before taking any decision under this delegation the officer dealing with the decision shall send the Report to the relevant Cabinet Member, the Chief Executive, the Monitoring Officer and Section 151 Officer and any Member whose division is particularly affected by that decision. They shall also arrange for a copy of the report to be made available to the Chair of the relevant Scrutiny Committee.
- 10.6** Any of the above persons may make written comments to the Member who is due to make the decision before the five working days has expired, copied to the Officer who wrote the report.
- 10.7** The above procedure shall not apply where the decision being taken is urgent, i.e., where any delay would seriously prejudice the Council's or the public interest. The Chair of the relevant Scrutiny Committee or the Head of the Paid Service must agree both that the decision proposed is reasonable in all the circumstances and

to it being treated as a matter of urgency. The record of the decision shall state the reasons(s) for urgency.

10.8 The Report template must set out:

- 10.8.1** the decision to be taken.
- 10.8.2** any publicity or consultation requirements (either before or after the decision is made) in respect of the decision, either under legislation or under Council policy or any which is considered appropriate and the outcome of those consultations.
- 10.8.3** the facts upon which any decision must be based.
- 10.8.4** any legislative requirements, including: the Public Sector Equality duty.
- 10.8.5** staffing and financial implications.
- 10.8.6** any implications for any other areas of the Council's activities.
- 10.8.7** any relevant national or regional guidance.
- 10.8.8** any Council policy relating to the issue, including sustainability issues.
- 10.8.9** the Cabinet Portfolio within which the issue falls and details of any interest or conflict of interest and / or any dispensation.
- 10.8.10** any Divisions which are particularly affected by the issue and confirmation the Local Member has been informed of proposal.
- 10.8.11** the options and alternatives that are available; and
- 10.8.12** any professional recommendation that the Officer wishes to make.

11.1 In relation to contracts,

- 11.1.1** the individual Member must ensure that the Council's Contract Procedure Rules and Financial Regulations have been complied with. They must not make a decision in respect of the selection of contractors, acceptance of tenders or otherwise entering into a contract unless they have written notification from the Director of Legal and Democratic Services/Monitoring Officer and the 151 officer that the above Procedure Rules have been complied with.
- 11.1.2** The individual Member must not sign any contract or in any way bind the Council or themselves. The contract documentation must be prepared by or approved by the Director of Legal and Democratic Services/Monitoring Officer and signed or sealed in accordance with the Council's procedures.

11.2 The report outlining the decision (to include options and reasons for taking the decision), signed by the Cabinet Member(s) shall be sent, together with any other information which was taken into

account by the decision-maker(s), to the Director of Legal and Democratic Services immediately who will arrange for its publication.

- 11.3** The decision will then be notified to all Members of the Council within 2 working days of it having been made. If the decision relates to a local issue a member whose division is particularly affected may within 5 working days of such notification being given, ask that the decision be referred to the full Cabinet for consideration. If the decision is of general application to the whole County any Member may ask the Leader of their political group to require the decision to be referred to the full Cabinet for consideration. Where a decision relates to matter that would, had it been taken by the Cabinet, been considered as a Part II item in the absence of the press and public Members will be notified of the decision and reminded that any documentation contains exempt information which should not be disclosed to the press and public.
- 11.4** Until the Cabinet has considered a decision which is the subject of a requisition under Paragraph 11.11 it shall not be implemented.
- 11.5** No decision shall take effect until it has been confirmed by the Monitoring Officer. The Monitoring Officer shall ensure that an Officer is designated as responsible for keeping up to date the full record of decisions by individual Members.
- 11.6** All forms sent to the Director of Legal and Democratic Services in accordance with Paragraphs 11 shall be available for public inspection, published on the website (unless part 2) and be an agenda item on meetings of the Cabinet.
- 11.7 Principles of Delegation** - In respect of matters delegated from Cabinet to individual Cabinet Members, the focus will be on policy issues within the policy and expenditure frameworks agreed by Cabinet and Council.
- Policy matters, internal to the service and required to provide guidance to officers to ensure significant policy decisions are implemented.
 - Details of policy matters delegated by Cabinet once principles have been agreed.
 - Expenditure items not specifically detailed within Service Plans but not sufficiently significant in scale to refer to Cabinet.
 - Budget virement items within a service where only one Cabinet Member is involved.
 - Responses to consultation documents not referred to Cabinet.

- In their absence, at the Leader's request, or where a prejudicial interest has been declared, to take decisions on any matter delegated to another Cabinet Member.
- It is the Cabinet Members responsibility to consult any other Member or Members of the Cabinet where the decision to be taken is of a cross-cutting nature.
- Any Member of the Cabinet may refer a matter delegated to them to the Cabinet for a collective decision.
- A record will be kept of all individual Cabinet Member decisions, which will be published and circulated to all Members to enable scrutiny of the same.

11.8 Matters for Cabinet Members - Cabinet Members are authorised to make decisions required in the area of their individual Cabinet Portfolio. This does not include a key decision, as defined in the Constitution.

- Cabinet Members may take policy, budget and expenditure decisions in accordance with the principles set out above.
- Cabinet Members may take decisions on tenders and contracts in accordance with the provisions within the Council's Constitution relating to contracts.
- Cabinet Members may take decisions on virement, audit, debt, write-off and placing of orders, in accordance with Financial Regulations.
- Cabinet Members may deal with petitions in accordance with the Council's Petitions Scheme.
- Cabinet Members may deal with asset management such as agreeing minor lease extensions.

12.0 Delegation of Discretionary Locality Budgets

10.9 In accordance with Article 6.9, the Leader of the Council in consultation with Cabinet Members, shall determine the amounts of any discretionary locality funds to be made available to Members within the overall sums determined by the Council for those purposes; to be allocated on the same basis for each Member.

10.10 A Member may determine the allocation and distribution of any discretionary locality annual budget allocated to them in line with the operating principles set out in this Part of the Constitution and the Policy & Budget Frameworks set out at Part 4 of the Constitution.

11.0 Delegation of Committee Functions

- 11.1** Any Chief Officer or Head of Service shown in the Management Structure set out at Part 8 of the Constitution may, in consultation with the Chair of any Committee (or in his/her absence the Vice Chair), make a decision in respect of any functions within the terms of reference of that Committee which for reasons of urgency cannot be delayed until the next ordinary meeting of that Committee and does not warrant convening a special meeting.
- 11.2** The procedure for registering and reporting such decisions set out in Paragraph 11.8 shall apply.

12.0 Delegation to Officers

- 12.1** For the purposes of this paragraph the words 'Chief Officer / Director' are defined as the holders of the following posts: Chief Executive, the Chief Officers for Children and Young People's Futures, for Integrated Adult Social Care, for Climate Change, Environment and Transport, Director of Finance and Public Value (Chief Finance Officer), Director of Legal and Democratic Services (Monitoring Officer), Director of Public Health, Communities and Prosperity, Director of Transformation and Business Services and Director of People and Culture.
- 12.2** A Chief Officer / Director or Head of Service (as defined in the Council's pay Policy Statement at Part 6 of the Constitution) is empowered to make all the day-to-day decisions which relate to the efficient discharge of the Council's statutory functions and which are within the directorate or management responsibilities identified in his or her terms of appointment and for this purpose may authorise an officer in his/her Service to make any such decision on his/her behalf.
- 12.3** Any Chief Officer / Director or Head of Service authorised to make the decisions referred to in paragraph 11.0 above but before doing so shall exercise careful, professional judgement, involving appropriate consultation, as to whether that decision is one which should be taken by a Cabinet Member.
- 12.4** Any decision under Paragraph 14.3, shall, in line with the Openness of Local Government Bodies Regulations 2014, be published on the Council's website at:
<https://new.devon.gov.uk/democracy/officer-decisions/>.
- 12.5** For the avoidance of doubt:
- All the specific delegations of subsisting duties and powers to members and individual officers in this Part of the Constitution and which are in the Register maintained by the Chief Executive under

the Local Government (Access to Information) Act 1985 (as set out in the table overleaf) are hereby approved by the Leader of the Council (adjusted as necessary to reflect any variation in the title of job description of the officer concerned);

- Any statutory reference to "the Proper Officer" shall mean the Director of Legal and Democratic Services as Monitoring Officer.