

Westmorland and Furness Council

Leader's Scheme of Delegation for Executive Functions

Contents

Leader's Scheme of Delegation for Executive Functions.....	1
The Executive Decision-Making Process.....	2
1. Summary of the Executive Decision Making Process.....	2
2. Executive Decisions.....	2
3. Cabinet Decision Making	3
4. Joint Committee and Locality Board Decision Making	5
5. Lead Cabinet Members	5
6. Officer Decision Making.....	6
Appendices	8
Appendix A: Leader & Lead Cabinet Member Responsibilities	8
Appendix B: Joint Committees.....	11
Appendix C: Locality Boards.....	15

The Executive Decision-Making Process

1. Summary of the Executive Decision Making Process

- 1.1 The Leader of the Council has overall responsibility for the executive functions of the Council as described in the “Responsibility for Executive Functions” set out in Part 2 Section 4 of the Constitution.
- 1.2 In accordance with the provisions of that section of the Constitution, to deliver those executive functions, the Leader has:
- appointed a Cabinet comprising up to nine further elected Members of the Council and has determined which executive functions shall be reserved to it as being the responsibility of the collective Cabinet meetings;
 - appointed one of those Members as Deputy Leader of the Council to act in the absence of the Leader;
 - allocated an area of responsibility to each of the Cabinet Members, including an area of responsibility to be retained as being the responsibility of the Leader;
 - established a Joint Committee for Shared Services and the transfer of LEP functions with Cumberland Council;
 - delegated specific executive functions to the three Locality Boards;
 - determined which delegated executive functions shall be the responsibility of a Portfolio Holder and an officer of the Council and has determined a Scheme of Executive Delegation to officers that sets out the decisions that an officer may take;
 - confirmed the responsibility of the Head of Paid Service and Chief Officers for the general management of the authority and for day to day operations for functions and services of the Council; and
 - determined the process and circumstances in which those decisions must be made.

2. Executive Decisions

- 2.1 An “executive decision” is one made in connection with the discharge of a function which is the responsibility of the executive, i.e., the Leader and Cabinet.
- 2.2 Certain executive decisions are defined in law as ‘Key Decisions’. The Council’s adopted definition of a key decision is set out in the Glossary at Part 6 of the Constitution and is defined as:

“An executive decision which is likely 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 is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the Council. For these purposes, savings and expenditure are “significant” if they are equal to or greater than £750,000. For clarification, no treasury management decision shall constitute a Key Decision”.

- 23 A key decision differs from other kinds of decisions because, where a decision maker intends to make a key decision, they must first publish certain requirements about the decision and (subject to certain exception and urgency provisions) the decision-maker cannot make the decision until at least 28 clear days after the those publicity requirements have been made available under the Access to Information Procedure Rules at Part 3 Section 3 of the Council's Constitution (though there are procedures in case or urgency). The details will normally be included in the Forward Plan which is published monthly.
- 24 Other Executive Decisions are referred to as non-key decisions, but they are still to be recorded.
- 25 All Key Decisions and those non-key decisions to be taken by Cabinet, or a Joint Committee, Locality Boards or an individual Cabinet Member are subject to the Council's call-in process at paragraph 13 of the Council's Overview and Scrutiny Procedure Rules at Part 3 Section 5 of the Council's Constitution.
- 26 Many administrative and operational decisions to be taken by officers relate to their general management role in conducting the Council's business and how they deal with their day to day work. These decisions may involve a sum greater than that referred to above, particularly in relation to decisions taken on expenditure on individual children's or adult social care packages. These decisions are exempted from the requirement to be regarded as executive decisions and, as such, they will not need to be recorded and published in the way described here.

3. Cabinet Decision Making

- 3.1 The Leader makes all executive decisions that are not otherwise delegated to the Cabinet, a Cabinet Committee, an individual Cabinet Member or an officer of the Council. Paragraph 3 of the Responsibility for Executive Functions at Part 2 Section 4 of the Constitution sets out the general responsibilities of the Cabinet for:
- (a) ensuring the effective and efficient discharge of the functions delegated to them;
 - (b) ensuring that any Council services within their remit are appropriate for and responsive to the needs and views of the Council's members of the public, and are delivered effectively and efficiently;
 - (c) ensuring that good external relationships and effective local liaison are promoted in relation to Council services within their remit;
 - (d) monitoring the functions of the Council within their remit and contributing to any Council aims, objectives and policies;
 - (e) determining policies, strategies, frameworks and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing to any necessary action;

- (f) determining the Council's views on matters specific to their areas of responsibility and related external matters; and
- (g) ensuring the effective and efficient management of any services and resources within their remit and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person.

32 Any executive functions or matters may additionally be referred by the Leader, Cabinet Member, Chief Executive or a Chief Officer to the Cabinet for consideration, determination and decision. Examples of matters that should normally be referred to Cabinet, rather than be taken as a delegated decision, are those that fall into one or more of the following categories:

- (a) the matter under consideration is a high profile matter;
- (b) the decision has a significant budgetary impact;
- (c) there is a need or it is considered prudent to engage the public and/or raise public awareness; and/or
- (d) the function/matter provides important performance management information.

3.3 Decisions of the Cabinet will be taken at a meeting convened in accordance with the Council's Access to Information Procedure Rules (at Part 3 Section 3 of the Constitution and which set out the requirements covering public meetings).

3.4 The procedural rules as to the business of Cabinet are set out in Cabinet Procedure Rules at Part 3 Section 2 of the Constitution.

3.5 An executive decision shall be taken by Cabinet only on consideration of a full report by the relevant officer(s), published in accordance with the Council's Access to Information Procedure Rules, which shall contain as a minimum:

- (a) a recommended decision;
- (b) a presentation of reasons for the recommendation being put forward;
- (c) details of any other options considered and why those options were rejected;
- (d) details of any consultation undertaken or proposed including, in respect of consultation undertaken, the nature and extent of the consultation undertaken with stakeholders and the overview and scrutiny committees and the outcome of that consultation;
- (e) consideration of any statutory duties such as Best Value, Health and Wellbeing and environmental considerations and impacts;
- (f) consideration of the financial and legal issues pertaining to the matter, and such other matters as the head of paid service, s.151 officer or monitoring officer may require, including risk, staffing or equalities implications; plus

- (g) a list compiled of any Background Papers to the report, meaning those documents other than published works that, in the opinion of the proper officer, relate to the subject matter of the report or, as the case may be, the part of the report; and
 - (i) disclose any facts or matters on which the report or an important part of the report is based; and
 - (ii) were relied on to a material extent in preparing the report; together with any additional comments the Lead Cabinet Member wished to add to the report.

3.6 The minutes of the meeting must, as a minimum, contain:

- (a) a record of the decision;
- (b) the date the decision was taken;
- (c) a record of the reasons for the decision;
- (d) details of any alternative options considered and rejected by the Cabinet at the meeting at which the decision was made;
- (e) a record of any declaration of interest and, in respect of decision making by elected members, a note of any dispensation granted; and
- (f) where appropriate, a statement of urgency and that the decision is exempted from call-in.

3.7 The decisions taken by Cabinet are subject to the Council's procedures for delayed implementation and call-in (as referred to at paragraph 2.5 above).

4. Joint Committee and Locality Board Decision Making

4.1 Where executive decisions are delegated to a Joint Committee the Procedures relating to Cabinet meetings and consideration of business as shown at paragraph 3.3 to 3.7 above apply also to Joint Committee meetings, subject to any member of the Cabinet being read as any member of the Committee.

4.2 Where the Leader has established and appointed to a Joint Committee, the composition and terms of reference will be set out at and appended to this Scheme at **Appendix B**.

4.3 The approved delegation of executive functions to the three Locality Boards are set out at **Appendix C**.

5. Lead Cabinet Members

5.1 The Leader of the Council has allocated an area of responsibility to each Cabinet Member, which is set out at **Appendix A**.

5.2 Paragraphs 5.3 and 5.4 summarise the general responsibilities which apply to all Cabinet Members and which are set out at paragraph 4 of Part 2 Section 4 of the Constitution "The Responsibility for Executive Functions"

- 5.3 There are occasions when matters affect more than one Lead Cabinet Member's area of responsibility. On such occasions, the Cabinet Member with the primary responsibility will take the lead, but in consultation with all Cabinet Members with an interest.
- 5.4 Each Cabinet Member is the "spokesperson" for the policy area they are responsible for. They also:
- (a) lead on developing Council policies and strategies making recommendations to the Cabinet (where there is no existing policy or strategy) and approving changes to Council policy for which they are the Portfolio Holder (or Lead Portfolio Holder);
 - (b) provide guidance to the Cabinet on delivering services;
 - (c) give guidance to the Cabinet on budget priorities;
 - (d) monitor financial and non-financial performance and make sure policy is delivered;
 - (e) lead on improving Council services;
 - (f) ensure that activities meet the Council's overall vision, core values and guiding principles;
 - (g) represent the Council at a national and local level;
 - (h) contribute to debate and decision-making;
 - (i) work with all Councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before relevant Overview and Scrutiny meetings and responding to Overview and Scrutiny Committee reports; and
 - (j) ensure appropriate consultation and liaison with partners and the community on matters within the scope of their area of responsibility.

6. Officer Decision Making

- 6.1 The Leader has determined a specified Scheme of Delegation to Officers. This is set out below and more particularly in the Officer Scheme of Delegation at Part 2 Section 6 of the Constitution. An individual officer may take an Executive Decision, as defined in paragraph 2 above, that is within the scope of their Service area, subject to the conditions set out in this Scheme of Delegation and related procedures as detailed below.
- 6.2 An officer who takes an Executive Decision shall ensure that an 'Officer Decision Record' is prepared as a written record of their decision and that it contains:
- a) a record of the names and titles of the decision taker and, where appropriate, the other officer(s) in attendance;
 - b) a record of the decision including the date it was made;
 - c) a statement of the reasons for the decision;

- d) details of any alternative options considered and rejected by the officer when making the decision;
- e) a record of any statement made by any Cabinet Member who is consulted by the officer, including any conflict of interest declared by that Cabinet Member which relates to the decision; and
- f) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's Monitoring Officer; and
- g) in respect of an urgent Key Decision, a statement of urgency and that the decision is exempted from call-in where appropriate.

6.3 If it relates to a Key Decision a notice of the decision will be published.

6.4 Any report or papers relied upon to a material extent to reach the decision must also be made available for inspection by members of the public.

6.5 Unless the officer's decision is a Key Decision, an officer decision is not eligible for call-in.

6.6 It is recognised that delegated officers cannot personally undertake the discharge of every function conferred upon them. Delegated officers are accordingly entitled to arrange for the discharge by their subordinate officers of functions allocated to them under their own internal Local Scheme of Delegation, provided that the delegated officer remains responsible for and accountable to the Cabinet and Council for the exercise of their delegated powers and puts in place such measures as the delegated officer considers appropriate to ensure that those officers assisting them in the discharge of functions do so in accordance with the provisions of this delegation and do not exceed the limits of any authorisation made to them by the delegated officer to assist them in this task.

6.7 Only Chief Officers can take Key Decisions these to be in consultation with the Leader and the Lead Cabinet Member.

6.8 Officers are authorised to make straightforward, operational or minor changes to frameworks, policies and strategies. However, changes to policies/strategies that are included within the Budget and Policy Framework (such as Development Plan Documents) must still be presented to Cabinet for approval and onward recommendation to Council.

6.9 For the avoidance of doubt, an Officer with the delegated power to make a decision, may, where they consider it necessary in the particular circumstances, refer the matter for decision by the Leader or relevant Cabinet Member. The Leader or relevant Cabinet Member may also request an officer not to exercise their delegated power in any particular case and to instead bring a report to Cabinet.

Appendices

Appendix A

Leader & Lead Cabinet Member Responsibilities

	Leader and Economy
Name	Cllr Jonathan Brook
Brief	<p>To provide strategic direction for the organisation and leadership for place. Represent the Council and its area at a regional and national level.</p> <p>Strategic Overview, External Relations, Policy and Performance, Transformation, Change, Regeneration, Economic Development, Nuclear.</p> <p>Any other executive function not otherwise allocated to any other person or body.</p>

	Deputy Leader and Finance
Name	Cllr Andrew Jarvis
Brief	<p>To deputise for the Leader as required and to help maintain a strategic overview of the organisation.</p> <p>Medium Term Financial Strategy and Planning, Budget Monitoring, Treasury Management, the Capital Programme, Core Financial Processes, Commissioning and Procurement, Assets and Property, Insurance, Risk Management, Benefit Administration, Council Tax, and NNDR, Legal and Corporate Governance.</p>

	Cabinet Member – Adult Care
Name	Cllr Patricia Bell
Brief	<p>Social Care Services for Older Adults, Physical Disabilities, Learning Disabilities, Mental Health, Active Cumbria, Health Integration, Public Health and Westmorland and Furness Care.</p>

	Cabinet Member – Childrens Services Education and Skills
Name	Cllr Janet Battye
Brief	<p>S19 Children Act 2004 Lead Member for all children’s services. Early years, Schools and post 16 Learning, Adult Learning, SEND, Skills and Apprenticeships, Home to school transport, partnerships.</p> <p>The arrangements for the Corporate Parenting Board are under the responsibility of the Cabinet Member for Children’s Services, Education and Skills (as an advisory committee paragraph 9.1 of Part 2 Section 4 of the Constitution “Responsibility for Executive Functions)</p>
	Children and Families, Early Help and Partnerships, children’s and young people’s social care, child sexual exploitation, young people, youth offending service, safeguarding, fostering and adoption, corporate parenting and Member Development.

	Cabinet Member – Communities, Customer Services, Culture and Communications
Name	Cllr Helen Chaffey
Brief	<p>Communities – Community Power, Rurality, Locality Boards, Town & Parish Councils, Equality, Diversity and Inclusion, Refugees & Asylum Seekers, Voluntary Community Faith Engagement, Grant Giving</p> <p>Customer Services</p> <p>Culture – Events, Arts, Heritage including Museums and Archives, Libraries</p> <p>Organisational Culture HR/Organisational Development, Health and Safety</p> <p>Communications</p>

	Cabinet Member – Highways and ICT
Name	Cllr Peter Thornton
Brief	Highways, Street Lighting, Fleet, Windermere Ferry, ICT and Digital.

	Cabinet Member – Planning and Active Well Being
Name	Cllr Vicky Hughes
Brief	Active Well Being Leisure, Play, Parks and Open Spaces. Planning, Local Plan and Building Control. Lead member in respect of the Armed Forces

	Cabinet Member – Climate, Biodiversity and Regulatory Services
Name	Cllr John Murray
Brief	Climate Change, Biodiversity, Flood Prevention, Air Quality, Environmental Health, Food Hygiene, Public Protection, Trading Standards, Licensing, Registrars, Coroners, Bereavement Services and Joint Emergency Management and Resilience.

	Cabinet Member - Housing and Community Safety
Name	Cllr Judith Derbyshire
Brief	Housing, Homelessness and Domestic Abuse, Community Safety and Community Resilience, Welfare, Housing Benefits, Poverty Alleviation.

	Cabinet Member – Environmental Services and Transport
Name	Cllr Adrian Waite
Brief	Transport including Buses, Cycling, Active Travel, Public Rights of Way, Countryside Access, Street Scene, Waste and Recycling Services.

1. Joint Committees

The Council has the following Joint Committees:

Shared (Hosted) Functions and Services

Joint Executive Committee

A Joint Executive Committee has been established under an Inter-Authority Agreement to oversee the management of those services, which are provided on a Cumbria-wide basis on behalf of the Cumberland and Westmorland and Furness Authorities to ensure effective delivery of such services and to provide strategic direction

Pursuant to Section 101 of the Local Government Act 1972, and to their powers under section 9EB of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, the Authorities' Executives have charged the Joint Executive Committee with responsibility for the exercise of:

- (a) Developing and approving the Service Strategies for each of the shared Functions and Services.
- (b) Ensuring that Service Strategies and the resources and budgets required to deliver the Service Strategies are in place.
- (c) Agreeing the responsibilities of each Authority to deliver the Service Strategies, including any specific responsibilities of the Host Authority and that the responsibilities are documented within the Service Strategies.
- (d) Ensuring that the services are provided within the policy and budget set by the Authorities.
- (e) Ensuring that the arrangements ensure that each Authority's statutory responsibilities are met.
- (f) Overseeing the implementation of the Service Strategies, including reviewing the performance of the services against budget and indicators for service quality, performance and efficiency, and initiating additional action where appropriate.
- (g) Ensuring that clear operational policies are in place and that these are complied with.
- (h) Agreeing the basis for apportioning cost between the two Authorities and the amount to be apportioned.
- (i) Ensuring that effective risk management arrangements are in place, that the Functions and Services are subject to adequate and independent audit and that any audit recommendations are acted upon.
- (j) Approving business cases for proposed changes and overseeing the progress of subsequent work.

- (k) Ensuring that there are robust plans for the disaggregation of services as and when required and that there is a smooth transition to separate or new arrangements.
- (l) Resolving issues that are referred to the Joint Executive Committee by the Joint Officer Board or relevant Chief Officers of the Service.
- (m) Delegating functions of the Joint Executive Committee to officers of either Authority under s.101 Local Government Act 1972 and section 9E Local Government Act 2000.
- (n) Agreeing arrangements to place staff employed by one of the authorities at the disposal of the other authority to carry out the functions of the Joint Executive Committee as described above under s.113 Local Government Act 1972.
- (o) Taking decisions in relation to the commissioning and procurement of services either hosted or under a lead authority arrangement from a third party.
- (p) Responding to reports or recommendations from the Joint Overview and Scrutiny Committee or one or both of the Authorities.
- (q) Providing an Annual Report to each of the two Authorities on the performance, finances and proposed service improvements including any arrangements for disaggregation.

Joint Police, Fire and Crime Panel

A Joint Police, Fire and Crime Panel is required under the Police Reform and Social Responsibility Act 2011. This has five members of Westmorland and Furness Council and five members of Cumberland, with two independent co-opted members. An assessment of political balance is required under the Police Reform and Social Responsibility Act 2011 once the nominations are received including from Cumberland Council. The political balance requirement is applied across the whole of Westmorland and Furness and Cumberland Council areas. The agreed appointments must meet the objective to produce a 'balanced panel', which in political balance terms is the political balance across the combined police and fire area, i.e., across the two councils as a whole.

NHS Bodies

There are numerous powers and duties for the Council and NHS bodies to work together, to share staff (under Section 113 Local Government Act 1972) and to enter into shared arrangements for the delivery of their functions, including the ability to delegate functions and have joint decision-making through joint committees.

The Council is involved in key statutory partnerships and bodies working jointly with the NHS and those involved with provision of care and support to the local population. Supporting the Health and Wellbeing Board the Council has representation on two Integrated Care Partnerships, these are:

- North East and North Cumbria Integrated Care Partnership and Lancashire and South Cumbria Integrated Care Partnership.

It should also be noted that the Leader/Cabinet may appoint representatives to the above and also to the NHS North East and North Cumbria Integrated Care Board (ICB) and the NHS Lancashire and South Cumbria Integrated Care Board (ICB), as may be required from time to time.

Locality Boards

Appendix C

Introduction

- 12 In order to promote close working with our communities there are three Locality Boards, which have been established on the local government boundaries of the predecessor Borough and District Councils and contain all Councillors whose wards fall within those localities.
- 13 Each of the Locality Boards is established as an 'area committee' under section 9E of the Local Government Act 2000 and may be given substantial powers and responsibilities by the Leader and Cabinet and also by the Council.
- 14 Where a Locality Board exercises powers granted to it by the Cabinet or Council it must do so within the parameters of the policies set by the Council and Cabinet and as set out in the terms of reference, including the ability to consider and report to Cabinet and Council on any matter affecting their area. Locality Boards operate within Council policy and decisions must be consistent with the Budget and Policy framework, any Service specific policies and the decision-making principles and requirements set out in the Constitution.

Composition

- 15 The Council will appoint Locality Boards as set out in the first row of the table below. The Wards to be included within the area administered by each Locality Board are shown in the rows beneath.

Furness Locality Board	Eden Locality Board	South Lakeland Locality Board
W&FC wards	W&FC wards	W&FC wards
Walney Island	Hesket and Lazonby	Kendal Strickland and Fell
Risedale and Roosecote	Eden and Lyvennet Vale	Kent Estuary
Ormsgill and Parkside	Penrith North	Levens and Crooklands
Old Barrow and Hindpool	Appleby and Brough	Bowness and Lyth
Dalton South	Greystoke and Ullswater	Grange and Cartmel
Dalton North	Kirkby Stephen and Tebay	Kendal Nether
Hawcoat and Newbarns	Penrith South	Ulverston
	Alston and Fellside	Upper Kent
	Eamont and Shap	Burton and Holme
		Kendal Castle
		Sedbergh and Kirkby Lonsdale
		Windermere and Ambleside
		Coniston and Hawkshead
		Kendal South
		Kendal Highgate
		High Furness
		Low Furness

- 1.6 All Members of the Council will be a member of the Locality Board that includes their own Ward. A member of the Cabinet may serve on a Locality Board, but will not be eligible to be appointed as the Chair.
- 1.7 The Locality Board elects its Chair and Vice-Chair annually at the first meeting following the Annual Meeting of the Council. The Chair will have a second or casting vote.

Terms of Reference

- 1.8 A Locality Board will undertake the following roles to:

General

- (a) Allocate funding grants within the terms of a Community Grants Scheme to be developed by the Cabinet.
- (b) Allocate discretionary budgets, make decisions and develop activities in supporting locality working, projects and activities within the terms of any scheme that may be developed by the Cabinet.
- (c) Nominate to membership of Outside Bodies within the locality, including to Local Authority School Governors, as may be referred by Council or the Cabinet.
- (d) Undertake responsibility for such other functions as may be referred to it by the Leader, the Cabinet, committee of the Cabinet or the Council.

Highways and Transport

- (a) To agree and keep under review the implementation of a one year programme of Locality Highways schemes for the area. Locality Highways schemes could include street lighting, drainage clearing, traffic calming schemes, sign cleaning, white line painting.
- (b) To agree and keep under review the implementation of a one year programme of Local Sustainable Transport schemes for the area. Local Sustainable transport schemes could include footpaths and rights of way, cycling and walking improvements, school streets, community transport support.
- (c) To advise and make recommendations to a grants panel for community bus grant applications.
- (d) To consider and determine traffic regulation orders, speed limit orders, experimental orders, parking places orders and revocation orders, with the exception of those that require urgent determination or are temporary in nature, in all cases, the relevant local member will have been notified of the matter.
- (e) To make proposals to the Cabinet for the inclusion of highways and transport schemes in the rolling three year strategic investment programme (revenue and capital) and one year delivery plan.

- (f) Commission technical assessments to ascertain the need for school crossing patrols in the Locality Board area, and establish or disestablish patrols in accordance with Council Policy.
- (g) Make representations to the relevant decision maker on highways and transport matters which fall entirely within the Locality Board area, including any funding bids.

Community

- (a) Undertake a community leadership role in bringing together different interest groups from the public, private and voluntary sectors to work in partnership to meet the Council's corporate strategic and local objectives.
- (b) Establish and maintain relationships with Town and Parish Councils and those outside bodies/voluntary organisations operating specifically within the locality.
- (c) Consider the policies and actions of the Cabinet as to their appropriateness to the needs and aspirations of local communities.
- (d) Receive petitions, presentations and questions from members of the public, groups and outside bodies on matters relating to their locality.
- (e) Act as a forum for discussion on matters of local interest and in particular to elicit/hear the views of local bodies and organisations.
- (f) Make arrangements for the provision of information about local services and other matters to people in the locality.
- (g) Provide local input into centrally determined specifications for all services.

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