

Appendix 1

Delegations agreed by the Leader of the Council in respect of executive functions with effect from 30 April 2021

1. Procurement: Cabinet Members to have delegated power to award contracts valued over £2m spend on services or supplies or £5m spend on works and contracts with a lower value where referred to them by officers.
2. Grants: Officers to have delegated authority to agree grants or other financial assistance up to a value of £25k per annum and Cabinet Members to have delegated authority to agree such grants or other financial assistance up to a value of £50k per annum, other than in the case of the Voluntary Sector Initiative Fund which will continue to be the responsibility of Cabinet.
3. Cabinet Members to have delegated authority in respect of the following property matters:

To acquire or dispose of leases, licences, and easements in respect of land or buildings where:

- the annual rental value (excluding other outgoings) exceeds £500k (or does not exceed this figure but is referred by the relevant officer); and
 - if acquired or disposed of at a premium the value would in the reasonable opinion of the Director of Strategic Regeneration and Environment exceed £2m in value (or would not exceed this figure but Director of Strategic Regeneration and Environment has decided to refer the decision to the Cabinet Member) and
 - the leasehold term does not exceed 125 years
4. The Chief Executive to have delegated authority until the next Full Council meeting (or such other date as may be determined by the Leader), in consultation with the Leader or relevant Cabinet Member, in respect of decisions meeting the following criteria which are normally reserved to Cabinet:
 - The exercise of that function or the making of that decision would or would be likely to conflict with or result in a change or departure from any decision or policy agreed by the Council or the Cabinet or relevant Cabinet Member
 - The exercise of that function or the making of that decision would or would be likely in the opinion of the relevant Strategic Director or the Chief Executive to result in a very significant change in the model of service delivery.
 - The exercise of that function or the making of that decision would or would be likely to expose the Council to a significant or unusual level of risk, financial or otherwise, as determined by the Chief Executive, the Director of Finance or the Director of Legal, HR, Audit & Investigations.
 - The exercise of that function or the making of that decision would result or would be likely to result in the permanent closure of a facility used by the public or a permanent and significant reduction in the level of services or facilities provided to the public.

The following changes to the Constitution have been agreed to give effect to these delegations:

PART 3 - RESPONSIBILITY FOR FUNCTIONS

- 9.5 In addition to those powers specified in the Tables and elsewhere in this Constitution, the officers specified above have delegated to them by the Council or the Leader, or Cabinet (as the case may be) all and any of the powers of the Council and the executive as may be necessary or desirable to enable them to effectively manage and operate their Department or to carry out the roles and responsibilities required of them from time to time (not necessarily restricted to those roles and responsibilities specified above). These powers are subject to the exemptions, restrictions and limitations specified in paragraph 10 below or elsewhere in this Constitution. These powers include (but are not limited to) the powers set out in the following table which are also, subject to any exemption, restriction or limitation specified in respect of them in that table:-

Power	Exception, restriction or limitation
3(a) to invite expressions of interest, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, agreements, deeds or other transactions; to purchase supplies and services; to appoint external consultants; to make minor or consequential changes to any of the documents mentioned above which were previously agreed by the Cabinet or the Council or their committees or sub-committees.	<p>Provided that:</p> <p>(a) In the case of a contract, agreement, deed or transaction where the Council would be in receipt of works, services or supplies (other than the supply of energy through the Local Authority Energy Buying Group administered by Kent County Council ("Laser")) if the value of the contract, agreement, deed, transaction, supply, service, work or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed £2 million in respect of services, supplies or £5 million in respect of works, such value to be aggregated over the life of the contract (including any possible extension) then:-</p> <p>(i) no expressions of interest shall be invited without the prior approval of either the relevant Cabinet Member in respect of contracts relating to executive functions (where the Cabinet Member has power to make the decision) or alternatively Cabinet (or in the appropriate cases the General Purposes Committee);</p>

	<p>(ii) no contract, agreement, deed or transaction shall be awarded, entered into or terminated without the prior approval of <u>either the relevant Cabinet Member in respect of contracts relating to executive functions (where the Cabinet Member has power to make the decision) or alternatively</u> Cabinet (or in appropriate cases the General Purposes Committee); and</p> <p>(iii) shortlists may only be drawn up and tenders may only be evaluated in accordance with the basis of the evaluation criteria approved by <u>either the relevant Cabinet Member (in respect of contracts relating to executive functions where the Cabinet Member has power to make the decision) or alternatively</u> the Cabinet (or in appropriate cases the General Purposes Committee) in accordance with Standing Orders 88(b) and 89(vi).</p> <p>(b)</p>
<p>9. to make grants or give other financial or other assistance to organisations.</p>	<p>(a) Provided that if the grant or other financial assistance involves the grant of funds from Council's own resources</p> <p>(i) the relevant Director is satisfied that no adverse capital finance or other negative implications would arise, unless written consent of the Director of Finance is obtained.</p> <p>(ii) no grant shall be made by officers if it amounts to more than £25k per annum except in the case of the Edward Harvist Trust where a grant not exceeding £7k per annum may be made and in the case of the Brent Advice Fund Grant where a grant not exceeding £20k per annum may be made<u>Neighbourhood Infrastructure Level grants which may be made</u></p>

	<p>by the Assistant Chief Executive up to the value of £100k.</p> <p>(iii) no grant shall be withdrawn or reduced by officers if the receiving body has received a grant from the Council for each of the last five years for the same purpose unless such withdrawal is due to the fact that the body no longer meets the relevant grant criteria or conditions of grant.</p> <p>(iv) the grant criteria has been approved by the Cabinet other appropriate body or person with appropriate authority.</p> <p>(v) no grant shall be made by officers from the council's Voluntary Sector Initiative Fund except with the prior approval of the Cabinet.</p> <p>(b) Provided that where the grant or other financial assistance involves the distribution of funds received from a third party the grant or other financial assistance complies with the conditions under which the funds have been received by the Council.</p>
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10. Exemptions, Restrictions and Limitations on Powers Delegated to Officers

10.1 Chief Officers exercising delegated authority [\(other than the Chief Executive in the case of \(a\), \(k\), \(l\) or \(m\) below\)](#) shall take all reasonable steps (including the taking of financial, legal and other similar advice) to ensure that no function is exercised or decision taken if, in their reasonable opinion:-

(a) **Policy:**

The exercise of that function or the making of that decision would or would be likely to conflict with or result in a change or departure from any decision or policy agreed by the Council or the Cabinet, other than the determination of planning applications where the departure from the development plan is determined in accordance with section 54A of the Town and Country Planning Act 1990.

(b)

(k) **Change in service delivery:**

The exercise of that function or the making of that decision would or would be likely in the opinion of the relevant Strategic Director or the Chief Executive to result in a very significant change in the model of service delivery.

(l) **Significant or unusual risk:**

The exercise of that function or the making of that decision would or would be likely to expose the Council to a significant or unusual level of risk, financial or otherwise, as determined by the Chief Executive, the Director of Finance or the Director of Legal, HR, Audit & Investigations.

(m) **Closure of a facility or reduction in services:**

The exercise of that function or the making of that decision would result or would be likely to result in the permanent closure of a facility used by the public or a permanent and significant reduction in the level of services or facilities provided to the public other than where such closure or reduction in service is considered necessary by the relevant Strategic Director or the Chief Executive for reasons of health and safety.

(n) **Charges and Fees:**

The decision relates to the setting, levying or increase of any fees or charges to any member of the public in respect of a Council service (other than room lettings and copying charges) unless it is authorised by the Council's Fees and Charges Policy and related guidance.

11. Acquiring, managing and disposing of land and buildings

11.1 Only the Strategic Director Regeneration and Environment or the Operational Director of Property and Assets may acquire or dispose of an interest in land or buildings. The restrictions placed upon such acquisitions or disposals are set out in paragraphs 11.2, 11.3 and 11.6 below. The Strategic Director Regeneration and Environment or the Operational Director of Property and Assets shall refer all other acquisitions and disposals including matters where the disposal or acquisition value or the length of lease are over and above the restrictions set out in 11.2, or 11.3 but below the amounts set out in section 13 below to the Cabinet Member with delegated authority or to the Cabinet.

13. Decisions by individual Members

The Leader has delegated the following functions to Cabinet members to be exercised within their portfolio area and in consultation with the Leader.

Categories of decisions for individual Cabinet Members, to be taken in consultation with the Leader.

CATEGORY	INDIVIDUAL MEMBER DELEGATED DECISIONS (in relation to their portfolio area)
Contracts and procurement	<u>Agreement to invite expressions of interest, agree pre-tender considerations, agree shortlists, invite tenders, negotiate, award, enter into and terminate contracts, deeds, agreements and other transactions; to purchase supplies and services and to appoint external consultants if:</u> <u>(a) the value of the contract, supply, service, work or consultancy would or would be likely or is estimated at the commencement of any procurement process to exceed the value at which officers may take the decision, but does not exceed £5 million in respect of services or supplies or £10 million in respect of works, such value to</u>

	<p><u>be aggregated over the life of the contract (including any possible extension); or</u></p> <p><u>(b) the likely or estimated value does not exceed the value at which officers may take the decision but the decision is referred by the relevant officer to the relevant Cabinet Member.</u></p>
<u>Grants</u>	<p><u>Agreement to make grants or give other financial assistance to organisations (other than from the Voluntary Sector Initiative Fund) provided that:</u></p> <p><u>(a) if the grant or other financial assistance involves the grant of funds from Council's own resources the grant or other financial assistance shall not exceed £50k per annum (and shall exceed £25k per annum unless specifically referred to the Cabinet Member by the relevant officer)</u></p> <p><u>(b) if the grant or other financial assistance involves the distribution of funds received from a third party, where this is specifically referred to the Cabinet Member by the relevant officer with delegated power, the grant or other financial assistance complies with the conditions under which the funds have been received by the Council.</u></p>
<u>Property</u>	<p><u>Agreement to acquire or dispose of leases, licences, and easements in respect of land or buildings where:</u></p> <ul style="list-style-type: none"> <u>the annual rental value (excluding other outgoings) exceeds £500k (or does not exceed this figure but is referred by the relevant officer); and</u> <u>if acquired or disposed of at a premium the value would in the reasonable opinion of the Director of Strategic Regeneration and Environment exceed £2m in value (or would not exceed this figure but Director of Strategic Regeneration and Environment has decided to refer the decision to the Cabinet Member); and</u> <u>the leasehold term does not exceed 125 years.</u> <u>if the lease, easement or, licence or other interest in land is otherwise disposed of at less than the best price that can reasonably be obtained this is and is not covered by a general consent, this is subject to obtaining any specific consent required from the Secretary of State</u>