

Meeting of the

OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 6 September 2011 at 7.00 p.m.

A G E N D A

VENUE

Room M71 7th Floor, Town Hall, Mulberry Place, 5 Clove Crescent,
London, E14 2BG

Members:	Deputies (if any):
Chair: Councillor Ann Jackson Vice-Chair: Councillor Rachael Saunders	
Councillor Tim Archer Councillor Stephanie Eaton Councillor Fozol Miah Councillor Sirajul Islam Councillor Amy Whitelock Councillor Zenith Rahman Councillor Helal Uddin	Councillor Peter Golds, (Designated Deputy representing Councillor Tim Archer) Councillor David Snowdon, (Designated Deputy representing Councillor Tim Archer) Councillor Harun Miah, (Designated Deputy representing Councillor Fozol Miah) Councillor Judith Gardiner, (Designated Deputy representing Sirajul Islam, Ann Jackson, Rachael Saunders, Zenith Rahman, Helal Uddin and Amy Whitelock) Councillor Ahmed Adam Omer, (Designated Deputy representing Ann Jackson, Sirajul Islam, Zenith Rahman, Helal Uddin and Amy Whitelock) Councillor Bill Turner, (Designated Deputy representing Ann Jackson, Sirajul Islam, Zenith Rahman, Helal Uddin and Amy Whitelock)

[Note: The quorum for this body is 3 voting Members].

Co-opted Members:

Mr Mushfique Uddin	– (Muslim Community Representative)
1 Vacancy	– Roman Catholic Diocese of Westminster Representative
Canon Michael Ainsworth	– (Church of England Diocese Representative)
1 Vacancy	– (Parent Governor Representative)
Jake Kemp	– (Parent Governor Representative)
Rev James Olanipekun	– (Parent Governor Representative)

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

Antonella Burgio, Democratic Services,

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LONDON BOROUGH OF TOWER HAMLETS
OVERVIEW & SCRUTINY COMMITTEE

Tuesday, 6 September 2011

7.00 p.m.

6 .3 Executive Decision Making by the Mayor (Pages 1 - 16)

To inform the committee of the process that has been established by which the Mayor may take decisions outside the context of the Cabinet meeting when necessary

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Agenda Item 6.3

Committee	Date	Classification	Report No.	Agenda Item No.
Overview and Scrutiny	6 September 2011	Unrestricted		6.3
Report of: Assistant Chief Executive (Legal Services) Originating Officer(s): John S. Williams, Service Head, Democratic Services		Title: Executive Decision Making by the Mayor Ward(s) affected: All		

1. SUMMARY

- 1.1 This report informs the committee of the process that has been established by which the Mayor may take executive decisions, including Key Decisions, outside the context of the Cabinet meeting where necessary.
- 1.2 Any Mayoral decisions taken under these arrangements will be published on the Council's website and notified to all Councillors by e-mail. Guidance has been issued to Corporate Directors on the operation of the Mayoral decision making process.

2. RECOMMENDATIONS

- 2.1 That the Committee note the arrangements that are now in place for executive decision making by the Mayor and notification of Mayoral decisions to Councillors.

3. BACKGROUND - THE EXECUTIVE SCHEME OF DELEGATION

- 3.1 Under the 'Mayor and Cabinet' form of executive that the Council is now operating, all executive powers are vested in the Mayor and it is for the Mayor to decide which of those powers he will discharge personally and which he will delegate.
- 3.2 The law permits the Mayor to delegate specific executive functions to the Executive as a whole (the Cabinet); a committee of the Executive or an individual member of the Executive; an officer; an area committee; a ward councillor in accordance with s.236 of the Local Government and Public Involvement in Health Act 2007; joint arrangements; or another local authority. The Mayor may amend or revoke any delegation of an executive function at any time.

- 3.3 The Mayor is required to present to the Annual Council Meeting a written record of delegations made by him ('the Executive Scheme of Delegation').
- 3.4 The Executive Scheme of Delegation presented by the Mayor to the Annual Council Meeting on 18th May 2011, amended to include Cabinet appointments made subsequently, is attached at Appendix A and this will now be incorporated into the Council's Constitution. The scheme confirms that:-
- i) all executive functions delegated to Chief Officers continue unchanged; and that
 - ii) in relation to decision making at Member level, the Mayor has not delegated any powers to the Cabinet, either collectively or individually, and has not appointed any committees or panels of the executive.

4. THE PROCESS FOR EXECUTIVE DECISION MAKING BY THE MAYOR

- 4.1 The Executive Scheme of Delegation provides for executive decisions of the Mayor to be taken and recorded in one of two ways – either at the Cabinet meeting, in which case the Mayor's decisions are recorded in the minutes of the meeting, or outside the context of the Cabinet meeting using a separate executive decision-making procedure. The arrangements for this procedure are attached at Appendix B. Key points to note include:-
- There is still a need for a full written report in the same format as would be required for a Cabinet agenda item.
 - The report must be accompanied by a completed pro-forma that includes an executive summary and the proposed decision, and must be signed off by the relevant Chief Officer, the Chief Finance Officer, the Monitoring Officer and the Chief Executive before being presented to the Mayor for decision.
 - The same requirements as for Cabinet items also apply in relation to advance publication of the report and, for a Key Decision, prior inclusion on the Forward Plan;
 - Where it is necessary to take a Key Decision that has not been published in advance on the Forward Plan, the urgency procedures in the Constitution still need to be followed (i.e. depending on the timescales notification to, or agreement by, the Chair of O&S Committee).
 - Decisions will be published on the Council's website and (unless agreed for exemption under the same procedures as for a Cabinet report) may be 'called-in' for consideration at the O&S Committee.

- Mayoral decisions will be logged by Democratic Services and held in a book that will be open for public inspection. Proposed decisions will be allocated a log number only when they have received full officer sign off.
 - Of course Part 2 (exempt) information will not be published, made available for inspection or included in the Forward Plan.
- 4.2 In accordance with the above that the new process does not override the existing provisions that are in place to ensure well informed, accountable and transparent decision making, and is not necessarily a 'fast-track' route to a decision. It is expected that relatively few decisions will be made using this procedure but it does represent an alternative method for obtaining Mayoral approval to a proposal where the timing of Cabinet meetings is problematic.
- 4.3 Full guidance on the operation of the executive decision making process has been issued to Chief Officers.

5. COMMENTS OF THE CHIEF FINANCE OFFICER

- 5.1 There are no financial implications arising directly from this report.

6. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 6.1 The report correctly outlines the effect of sections 14 and 18 to 20 of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 in relation to the discharge of executive functions in a mayor and cabinet executive.
- 6.2 Executive decisions taken by the elected mayor are subject to the access to information provisions set out in the Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000.
- 6.3 The provisions in the Council's Constitution empowering the Overview and Scrutiny Committee to scrutinise decisions taken in connection with the discharge of executive functions apply to mayoral decisions in the same way that they would apply to other executive decisions.

7. ONE TOWER HAMLETS

- 7.1 There are no implications for One Tower Hamlets arising directly from this report.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no implications in relation to Sustainable Action for a Greener Environment arising directly from this report.

9. RISK MANAGEMENT IMPLICATIONS

9.1 There are no risk management implications arising directly from this report.

10. APPENDICES

Appendix A – Executive Scheme of Delegation

Appendix B – Process for Executive Decision Making by the Mayor

LOCAL GOVERNMENT ACT, 2000 (SECTION 97)

LIST OF “BACKGROUND PAPERS” USED IN THE PREPARATION OF THIS REPORT

Background papers	Name and telephone number of and address where open to inspection
None	N/A

EXECUTIVE SCHEME OF DELEGATION

1. PURPOSE

- 1.1 The purpose of this Executive Scheme of Delegation is to:-
- be clear about who can make which executive decisions including Key Decisions;
 - facilitate the smooth running of Council business;
 - ensure that the Mayor is able to provide effective strategic leadership for the overall policy direction of the Council and to promote partnership working with other agencies; and that officers take responsibility for operational matters and policy implementation

2. THE CONSTITUTION

- 2.1 Once presented by the Mayor to the Annual Council Meeting or to the Monitoring Officer, this Executive Scheme of Delegation will form part of the Council's Constitution and will be appended to it. Its provisions apply alongside the Rules of Procedure and Access to Information provisions included in the Constitution.

3. AMENDMENTS TO THE EXECUTIVE SCHEME OF DELEGATION

- 3.1 This Scheme of Delegation remains in force for the term of office of the Mayor unless and until it is amended or revoked by the Mayor in accordance with Part 4.4 of the Constitution.

4. NON-EXECUTIVE DECISIONS

- 4.1 No delegated power in this Executive Scheme of Delegation applies to any decision that relates to a matter that is not an Executive function either by law or by the allocation of local choice functions under the Council's Constitution.

5. THE COMPOSITION OF THE EXECUTIVE

- 5.1 The Executive shall consist of ten people, namely the Mayor and nine Councillors as set out below:-

Name	Ward	Portfolio
Mayor Lutfur Rahman	N/A	Mayor
Councillor Ohid Ahmed	East India & Lansbury	Deputy Mayor
Councillor Rofique Ahmed	Mile End & Globe Town	Cabinet Member for Regeneration
Councillor Shahed Ali	Whitechapel	Cabinet Member for Environment

Councillor Abdul Asad	Whitechapel	Cabinet Member for Health and Wellbeing
Councillor Alibor Choudhury	Shadwell	Cabinet Member for Resources
Councillor Shafiqul Haque	St. Katharine's & Wapping	Cabinet Member for Jobs and Skills
Councillor Rabina Khan	Shadwell	Cabinet Member for Housing
Councillor Rania Khan	Bromley-by-Bow	Cabinet Member for Culture
Councillor Oliur Rahman	St Dunstan's & Stepney Green	Cabinet Member for Children's Services

6. DELEGATIONS TO THE EXECUTIVE

- 6.1 The Mayor has not delegated any decision-making powers to the Executive acting collectively.
- 6.2 The Mayor has not delegated any decision-making powers to any of the Councillors appointed by the Mayor to the Executive acting individually.
- 6.3 The Mayor may, in accordance with Part 4.4 of the Council's Constitution, appoint such committees of the Executive as he considers appropriate from time to time, but he does not appoint any such committees at this time.

7. DELEGATIONS TO OFFICERS

- 7.1 The Mayor has delegated to officers decision making powers in relation to Executive functions as set out at Parts 3 and 8 of the Council's Constitution.

8. OTHER DELEGATIONS

- 8.1 The Mayor has not delegated any powers to any area committee, or to any ward Councillor in accordance with s.236 of the Local Government and Public Involvement in Health Act 2007.
- 8.2 The Mayor has delegated powers to joint arrangements with other local authorities as set out in Article 11 of the Council's Constitution
- 8.3 Subject to 8.2 above, the Mayor has not delegated any powers to any other local authority.

PROCESS FOR EXECUTIVE DECISION MAKING BY THE MAYOR

1. Where an Executive decision, including a Key Decision, falls to be made and either:-
 - (i) authority to make that decision has not been delegated by the Mayor under this Executive Scheme of Delegation; or
 - (ii) authority has been delegated but the person or body with delegated powers declines to exercise those powers; or
 - (iii) authority has been delegated but the Mayor nevertheless decides to take the decision himself,

the decision shall be made by the Mayor individually, after consultation with the Chief Executive, the Monitoring Officer, the Corporate Director, Resources and such other Corporate Director(s) or Cabinet Member(s) the Mayor may determine.
2. Executive decisions (including Key Decisions) to be taken by the Mayor in accordance with paragraph 1 above shall either be taken:-
 - (a) at a formal meeting of the Executive, notice of which has been given in accordance with Part 4.4 of the Constitution and to which the Access to Information Rules at Part 4.2 of the Constitution shall apply; or
 - (b) in accordance with the procedure at 5 below.
3. In the case of a decision taken at a formal meeting of the Executive, the Mayor will take the decision having received written and oral advice from appropriate officers and consulted those members of the Executive present. In the event that a meeting of the Executive is not quorate, the Mayor may still take any necessary decisions having consulted any Executive members present. All Mayoral decisions taken at a formal meeting of the Executive shall be recorded in the minutes of the meeting.
4. The Cabinet Meeting is not authorised to exercise the Mayor's powers in the absence of the Mayor. If the Mayor is unable to act for any reason, and only in those circumstances, the Deputy Mayor is authorised to exercise the Mayor's powers.
5. The Mayor may at his discretion make a decision in relation to an Executive function, including a Key Decision, alone and outside the context of a meeting of the Executive. In relation to any decision made by the Mayor under this provision:-
 - (i) The decision may only be made following consideration by the Mayor of a full report by the relevant officer(s) containing all relevant information, options and recommendations in the same format as would be required if the decision were to be taken at a meeting of the Executive;

- (ii) In the case of a Key Decision as defined in Article 13 of the Constitution, the provisions of the Access to Information Procedure Rules in relation to prior publication on the Forward Plan, and the provisions of the Overview and Scrutiny Procedure Rules in relation to call-in, including the rules regarding urgent decisions, shall apply; and
- (iii) The decision shall not be made until the Mayor has confirmed his agreement by signing a Mayoral Decision Proforma (example attached) which has first been completed with all relevant information and signed by the relevant Chief Officers.

6. All Mayoral decisions taken in accordance with paragraph 5 above shall be:-

- (i) Recorded in a log held by the Service Head, Democratic Services and available for public inspection; and
- (ii) Published on the Council's website;

save that no information that in the opinion of the Assistant Chief Executive (Legal Services) is 'exempt' or 'confidential' as defined in the Council's Access to Information Procedure Rules shall be published, included in the decision notice or available for public inspection.

LONDON BOROUGH OF TOWER HAMLETS
MAYORAL DECISION PROFORMA

Mayoral Decision Log No: *(To be inserted by Democratic Services after CE's approval given)*

Title: *(To be inserted by Chief Officer seeking the decision)*

Is this a Key Decision: Yes / No *(Report author to delete as applicable)*

UNRESTRICTED / RESTRICTED *(Report author to delete as applicable and if restricted, to state which of the exempt/confidential criteria applies)*

EXECUTIVE SUMMARY

(To be completed by Chief Officer seeking the decision)

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.....

Full details of the decision sought, including reasons for the recommendations; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Assistant Chief Executive (Legal Services); implications for One Tower Hamlets; Risk Assessment; Background Documents; and other relevant matters are set out in the attached report.

DECISION

(Recommendations of the Chief Officer, as set out in the attached report, to be entered here)

.....
.....

APPROVALS

1. Corporate Director

I approve the attached report and recommendations above for submission to the Mayor.

Signed Date

2. Chief Finance Officer

I have been consulted on the above recommendations and my comments are included in the attached report.

Signed Date

3. Assistant Chief Executive (Legal Services)

I have been consulted on the above recommendations and my comments are included in the attached report.

(For Key Decision only – delete as applicable)

I confirm that this decision:-

(a) has been published in advance on the Council’s Forward Plan OR

(b) is urgent and subject to the ‘General Exception’ or ‘Special Urgency’ provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

Signed Date

4. Chief Executive

The recommendations above are consistent with the Council’s agreed Budget and Policy Framework and will contribute to the achievement of the authority’s Strategic Plan.

Signed Date

5. Mayor

I agree the recommendations above for the reasons set out in the attached report.

Signed Date

PROCESS FOR EXECUTIVE DECISION MAKING BY THE MAYOR

1. Where an Executive decision, including a Key Decision, falls to be made and either:-
 - (i) authority to make that decision has not been delegated by the Mayor under this Executive Scheme of Delegation; or
 - (ii) authority has been delegated but the person or body with delegated powers declines to exercise those powers; or
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the decision shall be made by the Mayor individually, after consultation with the Chief Executive, the Monitoring Officer, the Corporate Director, Resources and such other Corporate Director(s) or Cabinet Member(s) the Mayor may determine.
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save that no information that in the opinion of the Assistant Chief Executive (Legal Services) is 'exempt' or 'confidential' as defined in the Council's Access to Information Procedure Rules shall be published, included in the decision notice or available for public inspection.

LONDON BOROUGH OF TOWER HAMLETS
MAYORAL DECISION PROFORMA

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Title: *(To be inserted by Chief Officer seeking the decision)*

Is this a Key Decision: Yes / No *(Report author to delete as applicable)*

UNRESTRICTED / RESTRICTED *(Report author to delete as applicable and if restricted, to state which of the exempt/confidential criteria applies)*

EXECUTIVE SUMMARY

(To be completed by Chief Officer seeking the decision)

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Signed Date

3. Assistant Chief Executive (Legal Services)

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(For Key Decision only – delete as applicable)

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(a) has been published in advance on the Council’s Forward Plan OR

(b) is urgent and subject to the ‘General Exception’ or ‘Special Urgency’ provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.

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4. Chief Executive

The recommendations above are consistent with the Council’s agreed Budget and Policy Framework and will contribute to the achievement of the authority’s Strategic Plan.

Signed Date

5. Mayor

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Signed Date

LONDON BOROUGH OF TOWER HAMLETS

OVERVIEW AND SCRUTINY COMMITTEE: 6TH SEPTEMBER 2011

AGENDA ITEM 6.3 - EXECUTIVE DECISION MAKING BY THE MAYOR

TABLED ADDENDUM REPORT

The Council's Constitution provides that an executive decision, including a Key Decision, that is not taken under officers' delegated powers may be taken by the Mayor either at the Cabinet Meeting or using the Mayor's Executive Decision Making (EDM) procedure.

Details of all executive decisions proposed and taken by the Mayor under the EDM procedure are posted on the Council's website at:-

<http://moderngov.towerhamlets.gov.uk/ieListMeetings.aspx?Committeeld=434>

From the website Home Page, navigate to 'Council and Democracy'/'Council Minutes, Agenda and Reports'/'full list of Tower Hamlets Council Committees'/'Mayor's Executive Decision Making'.

The full list of Mayoral decisions taken up to and including today's date is:-

Log No.	Subject	Key Decision?	Unrestricted/ Restricted	Date of decision
001	HCA funding for street property purchases	Yes	Unrestricted	09.03.11
002	Capital Programme – Mile End Children's Centre	No	Unrestricted	18.04.11
003	Academies funding litigation	No	Restricted	28.04.11
004	Contract recommendation for replacement of ICT Data Storage equipment	Yes	Unrestricted	26.05.11
005	Implications of the Munro Review of Child Protection on the recruitment of an Executive Director, Education, Social Care and Wellbeing	No	Unrestricted	20.06.11
006	Contract recommendation for the appointment of Mott McDonald to design and manage the proposed works to Mulberry Place to facilitate vacating Anchorage House	No	Unrestricted	07.07.11
007	Contract recommendation for virtual desktop infrastructure servers	Yes	Unrestricted	13.07.11
008	Youth and Connexions, Youth Summer Grants 2011	No	Unrestricted	04.07.11

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