

CABINET- 3 MARCH 2004

PRINCIPAL SCRUTINY COMMITTEE – 29 MARCH 2004

DEVELOPING CABINET MEMBER ROLES AND RESPONSIBILITIES -TAKING THE
MODERNISATION AGENDA FORWARD

REPORT OF THE LEADER – COUNCILLOR SHEILA CAMPBELL

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RECENT REFERENCES:

CAB651 – Democracy Best Value Review – 21 May 2003

CAB717 – Members Allowances – Report of the Independent Panel – 1 October 2003

EXECUTIVE SUMMARY:

The report considers how the Council can take the next stage of the modernisation agenda forward - to improve leadership, efficiency and accountability.

RECOMMENDATIONS:

- 1 That with effect from the 2004/5 municipal year Cabinet should normally meet on a monthly cycle.
- 2 That in order to enable Cabinet to concentrate on more strategic items, delegation of some of the more routine business to portfolio holders be considered.
- 3 That a further report be brought forward for consideration of Cabinet, Principal Scrutiny Committee and Council on detailed proposals for a scheme of delegation to portfolio holders and any other consequential changes required to the Council's Constitution.
- 4 That Members indicate whether the proposed areas for delegation listed in paragraph 4.8 of the report are potentially suitable for such delegation and whether any additional areas should be considered.

- 5 That in addition to a scheme of delegation for portfolio holders, job descriptions for portfolio holders, ward members and other principal office holders be produced to aid both member and public understanding of respective roles and responsibilities.
- 6 That it be recognised that “member accountability statements” are also an important element in making information available to the public on the work that councillors undertake.
- 7 That further reports be brought forward to Cabinet, Principal Scrutiny Committee and Council on Member job descriptions and Member accountability statements.

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DETAIL:

1. Introduction

- 1.1 The move to a political structure based on Cabinet government brings with it a clear accountability for Cabinet Members. A central aim of local government modernisation is to offer the public clearly identifiable individuals who can be held responsible for a defined set of services.
- 1.2 Winchester's experience of the Cabinet system began with a trial of a multi-party Cabinet. When the system was fully introduced, the Cabinet became single party. Experience to date means it is timely to review how effectively the Council's system of governance meets the laudable objectives of the modernisation agenda.
- 1.3 The Council's own Best Value Review of Democracy, the IDeA peer review and the recent Comprehensive Performance Assessment (CPA) have all identified the need to give greater clarity to the leadership role undertaken by Members of Cabinet. The detailed Improvement Plan developed to take account of the recent CPA inspection will be coming to the Cabinet on 31 March 2004. However, it is desirable to put the framework into place for developing the portfolio holders' roles as an early element of that improvement plan. The Council also annually reviews its Constitutional arrangements in March/April each year so that any changes can be implemented from the beginning of the new municipal year. Such a review is required by the Democracy Best Value Review Work Plan.
- 1.4 This paper discusses the role of Cabinet and its portfolio holding Members. It aims to prompt a discussion on the development of Cabinet government. Its starting point is the assumption that Cabinet Members wish to develop further their roles to provide a clearer individual accountability, and closer engagement with policy development and implementation, whilst leaving the formulation of policy advice and day-to-day management as the provenance of officers.

2. What Should We Look At?

- 2.1 There are four areas to discuss where further consideration needs to be given to changes in the Council's Constitutional arrangements:
 - (a) Decision-making at Cabinet

At present Cabinet meets on a 2/3 week cycle to consider the volume of business. Decisions to be taken are those where some Member input is required but current agendas often contain a number of routine items as well as more strategic ones. Cabinet would be more effective if it concentrated on strategic issues and the more important or controversial decisions.

(b) Portfolio Holder Delegation

The modernisation agenda established in the Local Government Act 2000 and associated statutory guidance enabled delegation of decisions to individual portfolio holders for the first time. It is important to note that this was not intended to detract from the scheme of delegation to officers. Indeed it was intended that delegation to officers should also increase as councils moved away from the old committee system. Portfolio holder delegation was to allow increased individual accountability and responsibility for portfolio holders where it was still appropriate for a Member to be involved in the decision – but where efficiency could be improved when there was no need for full Cabinet involvement in the decision-making process.

To-date only very limited powers of this nature have been given to the Portfolio Holder for Finance and Resources – and this provision has only been used for the first time recently. Under the Council's Constitution the approval of full Council is required to grant delegated powers to individual portfolio holders.

Many councils have already developed this role for portfolio holders and it is necessary for Winchester to adopt this approach if it is to make progress on the modernisation agenda. A scheme of delegation of functions suitable for decision by individual portfolio holders is required.

(c) Job Descriptions for Portfolio Holders and other Members

At the moment Winchester has job titles for portfolio holders. The Constitution also makes reference to when they have to be involved in some decision-making processes as a consultee. However, there is no easily available description as to what the role entails, which is understandable as the role has developed under the new arrangements as a result of experience. However, the Independent Remuneration Panel, the IDeA review, and the Best Value Review of Democracy identified that such descriptions would help both member and public understanding. A similar approach could be taken to the role of the Ward Member and other principal Member chairmanships.

(d) Member Accountability Statements

The need for both portfolio holders and other members to publish short accountability statements that are available to the public has also been suggested by the Independent Remuneration Panel. This would involve completing a short template at regular intervals, say quarterly, that could then be available for public inspection. This should help to demonstrate achievements rather than simply being a record of meetings attended. The suggestion was also contained in the Democracy Best Value Review work plan.

- 2.2 In addition to these elements that are reflected in the Constitution, other action either has been taken, or is in the process of being taken, to develop working practices to improve the Leadership role of Cabinet – while at the same time recognising the importance of utilising the skills and experience available across the Council as a whole. Examples are set out below.

(a) Leadership Role

Cabinet Members have been strengthening their Leadership role in the way they operate in the community or respond to concerns expressed by the community. Examples are:

- the role taken by the Leader in relation to the development of the Local Strategic Partnership;
- the role of the Portfolio Holder for Planning and Development in relation to the PPG 3 public consultation exercise; the review of participation procedures for the Planning Development Control Committee; raising the profile of the local economy and an examination of enforcement processes currently in progress.
- The role taken by the Portfolio Holder for Housing in relation to TACT meetings.
- Members of Cabinet provide the links with public consultation groups in Highcliffe and Stanmore;
- Portfolio holders addressing the Town Forum and answering questions on items for which they have responsibility.

(b) Input into Policy Direction

Portfolio holders have also sought to further develop their role in guidance on policy and decision-making. This involves a clear appreciation of the importance of guidance on the policy principles and proposals which underpin reports and providing political accountability. This is not the same as expecting Members to formally clear all reports (and indeed some, such as those from statutory officers, are not subject to political oversight).

The importance of maintaining the difference between guidance on issues coming before Cabinet and not becoming involved in the Director responsibility for day to day management of Departments is recognised.

In some instances early policy direction has been given by the Portfolio Holder leading an Informal/Member Officer Group to help undertake wider consultation before policies are considered by Cabinet. In other instance the Principal Scrutiny Committee and Performance Improvement Committees have been asked to undertake this work.

In 2002/03 this type of work was mainly undertaken by Portfolio Holder led Informal/Member Officer Groups. However, it was recognised that the correct balance had not been achieved and that the expertise in the Principal Scrutiny Committee and the Performance Improvement Committees could be better used in some policy development work, provided the work programmes were properly co-ordinated to give focus and avoid overlap. Portfolio Holders can still attend these meetings to give input.

In 2003/04 a much better balance has been achieved – due the work of the Chairmen of Principal Scrutiny, the Performance Improvement Committees, and the Portfolio Holder for Performance Management - who have regular liaison meetings to develop the work programme. This approach has been successful and should continue to be further developed.

(c) Input into Performance Management

Portfolio holders have also become more involved in performance management. They normally attend PIC meetings when key areas relevant to their portfolios are being discussed. In addition processes are being improved to more fully involve portfolio holders at an earlier stage in the performance monitoring process – and further work is being done on this.

2.3 All of the above approaches are, in practice, mechanisms for helping to ensure portfolio holders guide and direct policy development and implementation. That in turn provides a basis for a stronger political lead for the Council, and ensuring that Officers give the administration the support they need. Such mechanisms can drive a change in the culture of the Council to recognise the new political structures we operate within.

3 A Possible Way Forward

3.1 To develop the following mechanisms to further develop the portfolio holder role:

- a) Move to Cabinet normally meeting on a monthly cycle – and with agendas that concentrate on the strategic issues and major policy/financial decisions. A monthly cycle should normally be adequate to deal with this type of business though additional meetings could be arranged if necessary – provided that the procedures related to the Forward Plan are complied with.
- b) This approach would require some of the more routine business to be dealt with in another way. Such decisions should be delegated to portfolio holders. This would demonstrate that the modernisation agenda is being adopted in a positive manner.
- c) The Chief Executive is preparing proposals to further refine the performance management system – building on the progress that is already being made due to the changes initiated by Principal Scrutiny Committee in Business plan processes. This should help to further develop the portfolio holder role and political accountability.
- d) The production of job descriptions and member accountability statements would help both portfolio holders – and all other members of the Council – in understanding their own roles and in accountability to the public.

4. Portfolio Holder Decision-Making – A Possible Approach

4.1 The paperwork for such decisions would be prepared by officers in the normal way. However, it would be in a shorter format than traditional committee reports – but would have corporate input and be sent out by the City Secretary and Solicitor. The Constitution requires copies to be sent to the Chairman and Vice Chairman of Principal Scrutiny Committee and Members on the relevant Performance Improvement Committee (5 clear days notice) so that they can raise issues with the portfolio holder. If 5 or more of these Members so require, the decision would have to be referred to full Cabinet. In appropriate cases copies could also be sent to ward councillors. A member of the City Secretary and Solicitor's staff would have to record the decision for the portfolio holder, usually with the Director present. The Director of Finance may also wish to be represented. The first report to be dealt under this

procedure is currently being processed. It relates to an exempt contract matter on IT where the major principles had already been considered by Cabinet and Principal Scrutiny Committee.

- 4.2 At the County and some other councils, some portfolio holder decisions take place in meetings which are held in public – with the papers available to the public and press in advance. There can also be an opportunity for public and ward member participation. There is no legal requirement to operate the system in this way. However, it has evolved as a way of ensuring accountability when major decisions have been taken under these powers without reference to a wider Cabinet body. In other examples some councils use the portfolio holder delegation for more routine decisions and the process is based upon paperwork, without the need for public meetings.
- 4.3 The legal requirements do not necessitate formal meetings – whether in public or otherwise. This is because it was envisaged that the system could be efficiently operated in a manner similar to a Government Minister making written decisions after considering the papers. However, any papers on non-exempt matters relating to a key decision have to be available for public inspection before the decision is made – and included in the Forward Plan. The Portfolio holders final decision notice (other than exempt items) has to be available for public inspection.
- 4.4 Given that, in the next stage at least, portfolio holders are unlikely to be given the power to make major decisions individually at Winchester, it is not necessary for public meetings to be held as part of the portfolio holder decision-making process. The power for other councillors to request that decisions be taken in Cabinet would provide a safeguard so that the portfolio holder would not use the paper process on controversial matters – which would then be given a public hearing.
- 4.5 In all cases – other than exempt items – copies of the draft decision notice which is sent at the consultation stage – and the final decision notice – should be sent to the press in the interest of public accountability and transparency. This would go beyond the legal requirements, which would merely require the documents to be made available at the offices for public inspection.
- 4.6 In some instances the portfolio holder may wish to take the final decision at one of the regular briefing meetings that occur between portfolio holders and Directors. The initial paperwork sent to other Members could then indicate that is the case. This could allow other Members to attend for that item to seek clarification or make representations if they so wish. Otherwise the representations could be made in writing or e-mail. Urgent cases could, of course, be dealt with separately when necessary.
- 4.7 Portfolio holders are already discussing with Directors possible items suitable for devolved decision-making. These should be:
 - Decisions that are not of a strategic nature
 - Decisions that do not require input from the wider Cabinet membership
 - Decisions which are within the approved budget framework and below a financial threshold (to be defined) that would be acceptable to the wider Council
 - Decisions that would have been taken by Cabinet in the past – not decisions that have already been delegated to officers

4.8 Possible areas are:

- Some Grant applications e.g. Environmental Improvement, Conservation/Listed buildings, Community Chest Grants; Other small and emergency Community Services Grants up to a financial limit (excluding the Annual Revenue Grants)
- Some traffic orders
- Some estates transactions above the financial limits of the Chief Estates Officer's current delegation
- Authority to authorise public consultation on possible development of HRA land
- Comments on Government Consultation Papers
- Comments on other authorities' Local Plans
- Writing off of debts within financial limits
- Approval of release of monies from open space schemes up to a financial limit
- Authority to incur revenue expenditure up to a defined limit
- Approval of procurement shortlisting processes and price/quality evaluation criteria.
- Individual matters delegated by Cabinet up to a defined financial limit that are within the scope of the budget and policy framework already approved by Council

4.9 A delegation to the portfolio holder for Finance and Resources has already been approved - Spending on ICT schemes up to a financial limit of £50,000 per project as long as there is budget provision (including ICT Reserve) and no increase in the base revenue budget. A specific delegation was also given by Council for a particular IT project.

4.10 More work is needed to identify suitable decisions that could be delegated in this way for each portfolio. The detailed wording of a Scheme of Delegation also needs to be devised. It is important to note that a portfolio holder is not required to use a delegated power if they do not think it appropriate to do so. In any cases where controversy is involved it is likely that the matter would be referred to Cabinet to deal with. The existing Constitution already allows 5 other Members to require the decision to be made by full Cabinet if they have concerns.

5. Conclusions

5.1 Adopting the approaches and practices outlined in this report will support clearer Member accountability and help to take the modernisation agenda to the next stage. Following consideration of this report more developed ideas for the necessary changes to the Constitution need to be produced and can be considered by Cabinet, Principal Scrutiny Committee and Council in this Committee cycle.

OTHER CONSIDERATIONS:

6 CORPORATE STRATEGY (RELEVANCE TO):

6.1 Relevant to the aim of providing Leadership for the area and to providing open access to Council papers.

7 RESOURCE IMPLICATIONS:

7.1 The proposed changes can be accommodated within existing resources. Although there will be some reduction in the number of formal Cabinet meetings, similar officer

time will required to operate the formal systems required for individual portfolio holder decision making.

BACKGROUND DOCUMENTS:

Democracy Best Value Review 2003; IDeA Peer Review 2003 and CPA Inspection Report 2004.

APPENDICES:

None