

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

COUNCIL MEETING – 11 OCTOBER 2006

REPORT OF THE ADMINISTRATION COMMITTEE

1. KEY DECISION DEFINITION

Background

- 1.1 The Administration Committee at its meeting on 10 October will review the current Key Decision (KD) definition in the light of the the 2005 Peer Review recommendation on this issue and other relevant considerations.
- 1.2 Guidance accompanying the Local Government Act 2000 (which introduced the 'Forward Plan' and 'Key Decisions') suggests that KDs should either exceed an agreed financial threshold or be 'likely to have a **significant impact** on communities in one or more ward or electoral division'.
- 1.3 Any tighter definition of KDs would mean that fewer executive-side decisions would appear on the Forward Plan and would be subject to the consultation and advance notification requirements in the Local Government Act 2000. Beneficially however, the Forward Plan would become a simpler, more focused, document and the weekly e-mail KD burden on OSC Members would be alleviated to some extent, enabling them to focus on the more significant decisions and on the important on-going in-depth review work.

The Proposed New KD Definition

- 1.4 The Administration Committee will consider the new KD definition below for recommendation to full Council. This definition takes into account all relevant considerations and, importantly from the perspective of maximum transparency, seeks to 'turn round' and clarify the current definition by specifying what **is** a KD rather than what **is not**.

"A key decision will be any executive side matter that is not already delegated to officers which:

- (i) involves income or expenditure of £100,000 or more; and/or*
- (ii) is likely to have a significant impact¹ on the community in one or more electoral wards.*

Notes:

- 1. For example (a) a decision to close a facility, alter services or carry out streetworks **would** be a key decision whereas (b) a matter which has no obvious impact on local people, such as an internal Council policy, **would not**. Where a decision is likely to have a significant impact, but only on a very small number of people, this will not be a key decision if it is under the financial threshold; however, in accordance with good practice, the decision-maker should ensure that those affected are informed in sufficient time for them to have an input into the decision-making process.*
- 2. Responses to consultation documents or representations on external issues where the comments to be submitted are consistent with Council policy and/or are part of an on-going dialogue within that established policy will not constitute a key decision. However, where a significant or substantive new response is required, this **will** constitute a key decision.*
- 3. In the case of any strategy or plan, the key decision or decisions will be made at the meeting where the strategy or plan is discussed - or through the individual Cabinet Member decision route as appropriate. Subsequent discussion and decisions about the finalising of any text consequent upon such considerations will not be deemed to be a key decision.*
- 4. Grants of £20,000 or more to voluntary organisations are deemed in normal circumstances to have a 'significant impact on the community' and will therefore be key decisions.*
- 5. In any case of uncertainty, the matter in question shall be treated as a key decision*
- 6. Any matter that does not fall within the above definition is delegated to the relevant officer of the Authority - albeit that any officer can, where he sees fit to do so, consult with the relevant decision-taker prior to taking any decision falling within his delegated authority.*

Further specific delegations

- 1.5 The Leader has agreed several categories of decision for delegation to officers, as follows. These will thus cease to be the subject of KDs.

Borough Valuer

To approve, following consultation with the relevant Cabinet Member, the renewal of leases on the basis of the existing terms up to a maximum term of 15 years, excepting rent.

Executive Director for Finance, Information Systems and Property

To approve the acceptance of contracts for insurance cover.

Consequent considerations

- 1.6 The current KD threshold figure appears elsewhere in the Constitution - in the Financial Regulations, Contract Regulations and Scheme of Delegation to Officers - and will need to be amended to mirror the above change, i.e.
- 1.7 **Procurement Procedure Rules and Contract Regulations (Part Four - F of the Constitution)** - Editorial amendments will be required to show that decisions on contracts **of £100K or more** will require a KD of the relevant Cabinet Member or full Cabinet before the contract can be awarded.
- 1.8 **Financial Procedure Rules (Part Four - D of the Constitution)** - The Leader has indicated that, in conjunction with the proposed new KD definition, virements of between £100-250K which are currently approved by the Cabinet Member for Finance and Property will become a KD for the relevant 'service' Cabinet Member in conjunction with Cabinet Member for Finance and Property.
- 1.9 **Cabinet Member Responsibilities (Part Three - Responsibility for Functions - A. Executive)** - The change to virement authority for Cabinet Members outlined above needs also to be picked-up editorially at C(xiv)-(xv). Similarly the higher value which will require Cabinet Member decision on advertising and awarding tenders will need to be picked-up at C(xix).
- 1.10 **Scheme of Delegation (Part Three - Responsibility for Functions - C. Officers)** - The revised KD definition will necessitate editorial changes to the Scheme of Delegation, notably at several places in the general delegations to all Executive Directors and Directors.

Introduction of the new definition

- 1.11 The Forward Plan is currently produced on the basis of the existing KD definition and a number of individual Cabinet Member KDs are awaiting confirmation. It is therefore suggested that the new KD definition be implemented with effect from 1 November 2007.

Recommendation

1.12 The Administration Committee accordingly **recommends** that the Council:

- (i) adopt the new KD definition at 1.4 above to take effect in relation to any new KDs coming forward from 1 November 2006; and
- (ii) note the further delegations authorised by the Leader (which, will also take effect as from 1 November) and the consequent editorial changes to parts of the Constitution (paras. 1.6-1.10 above) that will be required as a result of the new KD definition.

FOR DECISION

2. DELEGATED AUTHORITY

2.1 The Administration Committee will consider the changes shown at Appendix A to the Executive Director of Planning and Conservation's delegated authority. The purpose of doing this is to rationalise his powers and additionally to allow him to approve Section 106 'planning obligation' agreements in limited cases. New text is shown in bold type.

Recommendation

2.2 The Administration Committee accordingly **recommends** that the Council adopt the revised delegation set out at Appendix A.

FOR DECISION

Councillor Merrick Cockell
Chairman, Administration Committee

Background papers used in the preparation of this report:
Information from other boroughs on KD definitions.

Contact officer: Robert Sheppard, Head of Governance Services, on **tel:** 010 7361 2265 or **e-mail:** robert.sheppard@rbkc.gov.uk

REFERENCE	RECOMMENDED CHANGE
<p>Part Three – C – Responsibility for Functions - Officers (Pages 142-145)</p>	<p>Executive Director for Planning and Conservation</p> <p>Amend paragraph 5 to read:</p> <p>5. The Executive Director can determine applications for planning permission, listed building consent, conservation area consent, advertisement consent and other applications under the planning legislation in the following circumstances.</p> <p>5(c) Where there are not more than three or more valid planning objections which have been received by the end of the relevant statutory consultation period which cannot be overcome by conditions.</p> <p>Delete existing paragraph 10 and replace with the following:</p> <p>10 Where planning obligations have been approved by the Planning Services Committee or the Major Planning Development Committee the Executive Director may approve minor variations to the terms of the obligations prior to their completion.</p> <p>Insert new paragraphs 11 and 12:</p> <p>11. Where there is a planning application, which can be determined under delegated powers, and a S106 agreement has been completed in connection with an existing planning permission on the same site for a similar scheme, the Executive Director may agree to the Council entering a new agreement under S106 of the Town and Country Planning Act</p>

1990 and other related legislation on substantially the same terms.

12. **Where conditions attached to planning permissions and other consents require the approval of details or other matters, to approve those details or other matters and, where necessary, to confirm whether or not the relevant conditions have been complied with.**

Delete paragraph 28:

~~28. To approve facing materials~~

Amend existing paragraph 30 to read:

30. To approve **where not more than three valid objections have been received** the naming and numbering of any street or building in circumstances where no objection is received.

Insert new paragraph to read:

- 35. To consider applications to bring garden squares under the provisions of the Kensington Improvement Act 1851 or the Town Gardens Protection Act 1863.**