

PART C – EXECUTIVE ARRANGEMENTS AND CABINET PROCEDURE RULES

Introduction

This Part describes the Council's executive arrangements and sets out the Cabinet Procedure Rules. It should be read in conjunction with the appropriate paragraphs of Part 1 of this Constitution, the Budget and Policy Framework Procedure Rules, Part 3 Responsibility for Functions and the Access to Information Procedure Rules.

Description of Executive Arrangements

As provided by Section 11(3) and (8) of the Local Government Act 2000, and pursuant to the requirements of the Local Government and Public Involvement Act 2007 the Council has resolved to have an executive model of leadership that consists of a strong leader with a cabinet form of governance. With effect from May 2011 the Council will appoint a Leader for a four year term of office.

The Leader shall appoint a Deputy and up to eight other Members to the Cabinet and shall determine their responsibilities. The Leader may vary the membership of the Cabinet or the responsibilities of Cabinet Members and fill any vacancies on the Cabinet which may arise from time. The Leader and Deputy Leader may take a portfolio responsibility as determined by the Leader. Any changes to the membership or portfolios of the Cabinet shall be notified to the Council.

A member of the Cabinet can only be removed from office by the Leader. This does not preclude an office holder from resigning his/her position at any time. Where there is a delay between a resignation being tendered and the date of the next Council meeting, in the case of the Leader's resignation, the Deputy Leader will chair Cabinet meetings. Where both the Leader and the Deputy Leader resign, the Monitoring Officer in consultation with the Chairman of the Council will call a special meeting of the Council to appoint a new Leader. Where a Member of the Cabinet resigns and holds a portfolio responsibility, the Leader may reallocate the responsibilities of that Member or appoint a replacement.

For the time being, the Cabinet's responsibilities will consist of the following portfolios:

- Leader and Resources
- Deputy Leader and Adult Services
- Children and Family Services
- Health and Wellbeing
- Environmental Services
- Prosperity
- Procurement, Assets and Shared Services
- Performance and Capacity
- Safer and Stronger Communities

The executive functions will comprise the executive responsibilities under the Local Government Act 2000, and associated legislation and the role and responsibilities of the Cabinet are set out in more detail in Part 3 of the Council's Constitution.

Cabinet Procedure Rules

40 Appointing the Cabinet and Responsibility for Functions

- 40.1 At the Annual Meeting of Council, the Leader will present to the Council a written record of delegations made by him for inclusion in the Council's scheme of delegation at Part 3 of this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:
- 40.2. the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- 40.3 the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- 40.4 the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 40.5 the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements, and the names of those Cabinet Members appointed to any joint committee for the coming year; and
- 40.6 the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.
- 40.7 Where the Cabinet, a committee of the Cabinet, or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to a committee of the Cabinet, an area committee, joint arrangements, or an officer.
- 40.8 Even where executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them.

41 The Law and Executive Functions

- 41.1 Those responsible for discharging executive functions will ensure that they are acting within the law and this Constitution.

- 41.2 The functions in question are set out in Part 3 of this Constitution. This also sets out the body or individual responsible for taking decisions in respect of executive functions.
- 41.3 The Cabinet, and any individual member or committee thereof, must ensure, and be satisfied, that they have appropriate and adequate legal, financial and other relevant professional advice from officers before taking a decision on any matter before them. Advice from the Council's Monitoring Officer and Chief Finance Officer should always be obtained where there is doubt about vires or probity.

42 Conflicts of Interest

- 42.1 Where the Leader or any Cabinet Member has a conflict of interest, he will follow the requirements of the Council's Code of Conduct for Members.
- 42.2 If all (or a majority) of the Members of the Cabinet present have a conflict of interest then consideration will be given to applying to the Standards Committee for a dispensation from the provisions of the Code.
- 42.3 If the discharge of an executive function has been delegated to another body or individual and a conflict of interest arises, then it will fall to the body or individual who delegated the matter to take the decision. Where that body or individual also has a conflict of interest, then the action set out in 42.2 shall be considered.

43 Meetings of the Cabinet

- 43.1 The Cabinet will meet as indicated in the Council's programme of meetings. The Cabinet or the Leader may agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it/he sees fit. Locations of meetings will be published in the calendar of meetings.
- 43.2 The Cabinet may meet in public or in private, subject to legal requirements and the Access to Information Procedure Rules contained in the Constitution.
- 43.3 The Leader will preside at meetings of the Cabinet. If the Leader is absent then the Deputy Leader will preside. Where both the Leader and Deputy Leader are absent, the Cabinet Members present shall appoint one of their number to chair that meeting.
- 43.4 All Members of the Cabinet shall be entitled to attend meetings of the Cabinet unless the Cabinet determine otherwise.
- 43.5 Attendance by other Members of the Council or the public shall be in accordance with the Access to Information Procedure Rules, by invitation, or as set out in paragraphs 45.1 to 45.4 below.

44 Quorum at Cabinet Meetings

- 44.1 The quorum at a meeting of the full Cabinet, or a Committee or Sub-Committee established by the Cabinet, shall be 50% of its voting membership.

45 Attending and speaking at Cabinet Meetings

- 45.1 The Chairmen and Spokesmen of the Council's Scrutiny Committees shall be entitled, at any formal public meeting of the Cabinet, to speak to any matter on the agenda for that meeting.
- 45.2 Other Members not previously described above may also speak at such meetings with the permission of the Leader or person presiding in his/her absence.
- 45.3 Members wishing to ask a question at a Cabinet meeting must submit their question in writing to the Monitoring Officer at least three clear working days before the meeting.
- 45.4 The Cabinet may invite any person to its meetings to discuss matters of mutual interest or concern or to advise. Such persons may only be given access to confidential and/or exempt information on terms to be decided by the Monitoring Officer so as to ensure that the Council's obligations under the Local Government Acts in respect of Access of Information are observed.

46 Business at Cabinet Meetings

- 46.1 The business to be transacted at a meeting of the Cabinet will be set out in an Agenda for that meeting, subject to any requirements or exemptions under the Access to Information Procedure Rules.
- 46.2 The Agenda may be supported by additional papers prepared by the Officers or by or on behalf of other bodies, subject to requirements about disclosure of confidential or exempt information. Full agendas for meetings of the Cabinet will be made available, electronically, in advance of the respective meeting, to all Members of the Council and in accordance with the Council's current policy.
- 46.3 The Cabinet is obliged to consider matters referred to it by a Scrutiny Committee, or by the Full Council, for consideration under the Scrutiny Rules.
- 46.4 The Cabinet will, at each formal meeting, confirm the record of decisions taken at its previous meeting as a correct record.
- 46.5 The Monitoring Officer, or his/her nominated officer, shall be responsible for preparing and distributing the Agenda for Cabinet meetings, attending

meetings for the purpose of advising the Cabinet on matters within his/her area of responsibility and recording decisions as required under this Constitution.

- 46.6 In taking decisions, the Cabinet must satisfy itself that it has before it adequate and appropriate advice from the relevant service, and from legal and financial advisers who shall, where appropriate, be present at any meeting where a decision is being taken and that that advice is taken into consideration in determining the matter. Where there is any doubt about vires or probity then advice must be obtained from the Monitoring Officer and the Chief Finance Officer.
- 46.7 Meetings of the Cabinet will be programmed into the Council diary prepared under Procedure Rule 1.1. The Cabinet can agree to change the date of any programmed meeting, to cancel a meeting or to arrange additional meetings as it sees fit.
- 46.8 The order of business at Cabinet meetings is a matter for the Cabinet to determine.
- 46.9 Any Member of the Cabinet may require the Monitoring Officer to place an item on the Agenda for a stipulated meeting of the Cabinet.
- 46.8 Any Member of the Council may request the Leader to place an item on the Agenda of a meeting of the Cabinet. The Leader shall have sole discretion as to whether or not to accede to such a request and, if such a request is granted, whether the Member in question can speak to the item at the meeting in question.
- 46.10 The Head of the Paid Service, the Monitoring Officer and/or the Chief Finance Officer can include an item for consideration on the Agenda of a Cabinet Meeting. In pursuance of their statutory duties they can require that a special meeting of the Cabinet be convened.
- 46.11 Except where it is urgent, business cannot be conducted at formal meetings of the Cabinet unless it is included in the Agenda for the meeting. an item of business which is not included on an agenda for a Cabinet meeting may not be considered unless the Leader or person presiding is of the opinion that the matter is urgent and cannot await another meeting, and unless the requirements of the Access to Information Procedure Rules have been complied with. This shall also apply to any committee of the Cabinet or to an individual Portfolio Holder.
- 46.12 The Cabinet will report to the Council, as required under the Access to Information Procedure Rules, on any matter which is classified as a key decision and which is dealt with under special urgency procedures.
- 46.13 Subject to 3 clear working days' notice being provided to the Monitoring Officer, questions can be submitted by members of the public at

meetings of the Cabinet, in accordance with Council Procedure Rule No. 35 and Appendix 7 of the Procedure Rules.

- 46.14 Cabinet decisions, including those taken under delegated powers, shall not take effect until they have been recorded in writing, as required under the Council's procedures, and shall not be implemented where the right of call-in applies and has been exercised until the call-in process has been concluded. Where the right of call-in applies but is not exercised, a Cabinet decision may be implemented immediately after the expiry of the call-in period.
- 46.15 A written record of all Cabinet decisions will be kept by the Monitoring Officer and these will be made available publicly as soon as practicable after the decision has been taken (excluding the disclosure of confidential and exempt information and in accordance with the Scrutiny Procedure Rules). In recording decisions of the Cabinet, the Monitoring Officer will set out the decision, the reasons for the decision and alternative options considered as required under the Access to Information Procedure Rules in the Constitution.

47 Voting at Cabinet Meetings

- 47.1 Voting at Cabinet meetings will be by a show of hands and any Member may require, immediately after the vote is taken, that the Minutes of the meeting record how he/she voted or that he/she abstained. Where there are equal votes cast and the Leader or person presiding has voted, the Leader or person presiding will have a second or casting vote. Voting for any office or appointment, including any paid appointment, where more than one person is nominated shall be by secret ballot conducted in accordance with Council Procedure Rules.

48 Cabinet Committees/Sub-Committees and Task Groups

- 48.1 The Leader or the Cabinet may appoint such Committees or Sub-Committees as are considered necessary and appropriate to assist in the discharge of executive functions. In making such appointments, the name of the Committee/Sub-Committee must be specified, along with its membership (including its Chairman and, if appropriate, Vice-Chairman) and its powers.
- 48.2 The Cabinet may also appoint whatever task or advisory groups it deems necessary, comprising some or all of its own membership, any other member or non-member of the Council.

49 Decision Making By Individual Portfolio Holders

- 49.1 Where the Leader has delegated decision making powers to individual Portfolio Holder they will exercise their powers and duties in accordance with these rules and Part 3 of this Constitution.

50 Motion Under Standing Order 12

- 50.1 A mover of a motion under Standing Order 12 which has been referred to the Cabinet for consideration may attend the meeting of the Cabinet when his/her motion is under consideration and explain the motion. The mover of the motion will be advised of the date and time of the meeting when the matter is to be considered and he/she will be sent a copy of the relevant papers. This does not affect the right of the mover or seconder of the motion to attend a Scrutiny body when his/her motion is being considered.

51 Resolving Disputes

- 51.1 In the case of any dispute during the proceedings of the Cabinet the relevant parts of this Constitution will apply and, after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and his/her ruling will be final.

52 Reserves/substitute members

- 52.1 There shall be no reserve or substitute members of the Cabinet.

53 Approval of Urgent Business

- 53.1 Where any matter is urgent and cannot await the next meeting of the relevant executive body or Portfolio Holder, the Chief Executive may take the necessary action, provided that she has first consulted the appropriate members as set out in Appendix 4 of the Council Procedure Rules .

54 The Forward Plan and Key Decisions

- 54.1 The Leader will ensure that the requirements of the Access to Information Procedure Rules are met in relation to the publication of the Cabinet's Forward Plan of Key Decisions.
- 54.2 Those decisions which are Key Decisions are defined in Chapter 13, paragraph 4 of this Constitution.
- 54.3 Where the Cabinet as a body is making Key Decisions, that meeting shall be held in public. Where a matter is to be considered and Regulation 7 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 is applicable then the meeting will be held in public. In both cases the public may be excluded from the meeting where confidential or exempt information is likely to be disclosed. This also applies to any body or Portfolio Holder to whom the relevant executive powers have been delegated.
- 54.4 Where an officer exercising an executive function under delegated powers receives a report which he/she intends to take into consideration

when making a Key Decision that decision shall not be taken until the report has been made available for inspection by the public for five clear working days following receipt of the report by the decision taker. A copy of such report must be supplied as soon as reasonably practicable to the Chairman of the relevant Scrutiny Committee or, in his/her absence, the Vice-Chairman of the Committee. The report must also list any background papers.

54.5 Where the inclusion of a matter in the Forward Plan is impracticable and the matter would be a Key Decision, that decision shall only be made:-

- (a) where the Monitoring Officer has notified the Chairman of the relevant Scrutiny Committee, or in his/her absence the Vice-Chairman of the Committee, of the matter about which the decision is to be made;
- (b) where the Monitoring Officer has made available for public inspection a copy of the notice given under (a) above; and
- (c) where a period of five clear working days has elapsed since the Monitoring Officer made available the notice referred to in (b) above.

54.6 Where the date by which a Key Decision must be made makes compliance with the requirements under 54.5 above impracticable, the decision shall only be made where the decision maker has obtained agreement from:

- (a) the Chairman or, in his/her absence, the Vice-Chairman of the relevant Scrutiny Committee; or
- (b) if there is no Chairman or Vice-Chairman of the relevant Scrutiny Committee, or if neither is able to act, the Mayor or, in his/her absence, the Deputy Mayor

that the making of the decision is urgent and cannot reasonably be deferred. Such decisions when made are not subject to the provisions relating to call-in. All Members will be sent electronic notification of the agreement reached that compliance with the requirements of Rule 54.5 above was impractical.

54.7 The Leader shall submit a quarterly report to the Full Council containing details of each Key Decision taken during the preceding three months under 54.6 above and agreed as urgent. The report will include particulars of each such Key Decision and a summary of the matters in respect of which each decision was made.

54.8 Where an executive decision which was not classified as being a Key Decision has been made and the relevant Scrutiny Committee is of the opinion that the decision should have been so classified, that Committee

may require the Cabinet to submit a report to the Full Council within such reasonable period as the Committee may specify, containing the following details:-

- (i) the decision and the reasons for it;
- (ii) the decision maker; and
- (iii) if the Cabinet is of the opinion that the decision is not a Key Decision, the reasons for this view.