

CABINET	AGENDA ITEM No. 9
21 MARCH 2016	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor John Holdich, Leader of the Council and Cabinet Member for Education, Skills and University	
Contact Officer(s):	Kim Sawyer, Director of Governance	Tel. 452361

ALTERNATIVE GOVERNANCE ARRANGEMENTS – EXECUTIVE PROCEDURE RULES

RECOMMENDATIONS	
FROM : Alternative Governance Design and Implementation Group	Deadline date : n/a
<p>The Cabinet are asked to:</p> <ol style="list-style-type: none"> 1. Approve the proposed changes to the Executive Procedure Rules (Part 4 - Section 7) as set out in Appendix 2, and 2. Request that Council ratify these at the Annual meeting of Council on 23 May to take effect upon introduction of the new governance model. 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Cabinet following the Council's decision on 27 January to adopt an alternative form of governance to take effect from the Annual Council meeting in May 2016 and to approve amendments to those sections of the Constitution relating to overview and scrutiny.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to obtain Cabinet's approval to the amended executive procedure rules set out in Appendix 2 for ratification by Council. These amendments reflect the changes in the Council's governance model from Annual Council 2016.
- 2.2 This report is for Cabinet to consider under its terms of reference 3.2.5 to review and recommend to Council changes to the Council's Constitution, protocols and procedure rules.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO
Date for relevant Council meeting	23 May 2016

4. BACKGROUND

- 4.1 The background to the changes to the governance arrangements were reported to Council on 27 January 2016. Council agreed a hybrid model of executive decision making to take effect from its Annual meeting in May. Council also agreed the following key changes to the Constitution to

implement the alternative model to take effect from the Annual meeting of the Council in May 2016.

- (a) Article 7 – Overview and Scrutiny – included the role of scrutiny under a hybrid model
- (b) Section 4 - Overview and Scrutiny Functions and Terms of Reference – set out the revised functions for the proposed scrutiny committees aligning Cabinet Portfolios with the scrutiny structure
- (c) Section 8 – Scrutiny Committee Procedure Rules –set out the proposed arrangements for scrutinising executive decisions before they are made.

4.2 In order to implement the revised arrangements, Cabinet will need to review its Executive Procedure Rules. The proposed changes are set out in Appendix 2. Paragraph 8 Pre-Scrutiny of Executive Decisions sets out the proposed executive procedures to implement the hybrid model and cross references to the Scrutiny Procedure Rules.

4.3 In summary, the proposals agreed by Council and recommended in this report are as follows:

- (a) Every 4-6 weeks before a Cabinet meeting, the forward plan will be published and the Chairman of the relevant Scrutiny Committee in consultation with the relevant Cabinet Member will call forward any executive decisions that should be taken to a scrutiny committee before a particular executive decision is made. At this forward plan meeting, the relevant Chairman will decide:
 - 1) matters where scrutiny would like to have early involvement at the policy development stage, for example major policy documents, and
 - 2) those reports coming before a Cabinet Member (CMDNs) that month or before the next Cabinet meeting that the relevant Scrutiny Committee wishes to see before the decision is made.
- (b) On the matters selected under 2), the executive report with recommendations will be put on the agenda of the appropriate Scrutiny Committee the week before it goes to Cabinet or to the Cabinet Member for decision.
- (c) To ensure Scrutiny Committees are aligned to Member and Officer portfolios, the following three Scrutiny Committees will be established:
 - (a) Children and Education Scrutiny Committee
 - (b) Adults, Communities and Health Scrutiny Committee
 - (c) Growth, Environment & Resources Scrutiny Committee
- (d) Scrutiny Committees will need to meet at least 8 times a year, more frequently than they do now to shadow Cabinet meetings. Although Cabinet meets 10 times a year, two of these relate to the budget for which there is a separate consultation process.
- (e) Each of the three Scrutiny Committees will meet on Monday, Tuesday and Wednesday the week before Cabinet. (See attached calendar – Appendix 1).
- (f) At their meeting, the relevant Scrutiny Committee will consider the report and make recommendations to the Cabinet, and in the case of Cabinet Member Decisions, to the relevant Cabinet Member.
- (g) To enable this to happen, the Cabinet agenda will be published in two parts. Part 1 will include all reports selected for pre-scrutiny and will be published the week before the normal cabinet publication date to enable these matters to also go on the scrutiny committee agenda. Part 2 – All other executive reports will be published 5 clear days before the Cabinet as now.
- (h) The Scrutiny Committee will discuss the report and the Officer recommendations. The Director submitting the report, or his/her representative, and the relevant Cabinet Member will attend the Scrutiny Committee to answer any questions. The Scrutiny Committee will then

decide if it agrees with the Officer recommendations or if it wishes to make alternative recommendations. The Scrutiny Committee will need to give reasons if they make alternative recommendations. The Officer report will then either go to the Cabinet Member to make the decision for Cabinet Member Decision Notices (CMDNs), or to the next meeting of Cabinet if the decision is to be made by the Cabinet. At that time they will also take account of the Scrutiny Committee's recommendations.

- (i) Where the Scrutiny Committee agrees with the Officer recommendations, Cabinet/Cabinet Member note this. Where they disagree a "reference-up" process ensures that Cabinet takes account of this as follows:
 - i. For CMDNs, if a Cabinet Member does not agree with the Scrutiny Committee recommendations, he or she will refer the Officer report to the Cabinet to decide. If the matter is considered by Cabinet and the Cabinet does not agree with the Scrutiny Committee's recommendations, it will give reasons.
 - ii. Provision is made for minority reports where a minority of members on a scrutiny committee disagrees with the majority on the committee. If a minority of voting members on the Scrutiny Committee do not agree with the majority's views/recommendations, they may put forward alternative recommendations, known as minority reporting. The minority report will be considered by the Cabinet before it makes its decision. For CMDNs, if the Cabinet Member receives a minority report, he or she will refer the matter to Cabinet for decision. The Chairman of the Scrutiny Committee and any Members submitting a minority report will be able to speak in support of their views at the Cabinet meeting.

IMPLICATIONS

- 4.4 There are implications for the timeliness of executive decisions selected for pre-scrutiny, in particular CMDNs. If it is decided to call forward a CMDN, the Cabinet Member will need to wait for the outcome of the scrutiny committee meeting to establish whether he has the power to make the decision under the new arrangements. There are three possible outcomes following a scrutiny meeting:
 - (a) If the Scrutiny Committee agrees with the recommendations and there are no minority reports, the Cabinet Member can take the decision.
 - (b) If the Scrutiny Committee agrees with the recommendations and there is a minority report, the report will need to be referred up to Cabinet
 - (c) If the Scrutiny Committee proposes changes to the recommendations and the Cabinet Member does not agree with them, the report will need to be referred up to Cabinet.
- 4.5 However, as part 2 of the cabinet agenda will have already been published, the report will need to be referred to the following Cabinet meeting which could be about 6-8 weeks away, unless urgent.
- 4.6 Alternatively, as a safeguard, the Cabinet Member could decide to put it on the Cabinet agenda as soon as it is decided to call forward the item at the forward plan meeting with the Chairman and Cabinet Member, or at this stage, they could decide that the matter is urgent and should not be subject to "pre-scrutiny".

OTHER AMENDMENTS TO THE EXECUTIVE PROCEDURE RULES

- 4.7 The opportunity has also been taken to correct other matters in the rules. In summary, amendments have been made to the following sections:

OTHER AMENDMENTS

1.7 – Public and Private Meetings of Cabinet – This section has been amended to comply with the Localism Act and subsequent regulations to give 28 days' notice of private meetings.

2.4 – The Executive Agenda – It removes the requirement for the Monitoring Officer to place an item on the agenda of a cabinet meeting at the request of a Member. It is for the Leader to decide the cabinet agenda, subject to any reports submitted by a scrutiny committee or full Council. Members may ask the Leader to put an item on the agenda.

4 - Forward Plan - This section has been amended to comply with the Localism Act and subsequent regulations in relation to key decisions.

Question Time: The previous executive procedure rules made provision for Cabinet to hold quarterly question time meetings. As this has not been used, it is proposed to delete this section.

5. CONSULTATION

5.1 Members were represented on the Design & Implementation Working Group which recommended the model to full Council.

6. ANTICIPATED OUTCOMES

6.1 The proposed changes to the Constitution will ensure Council implements a hybrid model suitable for Peterborough City Council after the Annual meeting in 2016 as agreed by Council. It will assist officers in preparing for implementation of the chosen model from now until May. This will include

- a) reviewing procedures, and modelling the proposed changes prior to May
- b) reviewing other parts of the constitution affecting by the changes,
- c) communicating the proposed changes to the public, in accordance with the Council's statutory duties
- d) communicating the proposed changes partners, staff and providing any training.

7. REASONS FOR RECOMMENDATIONS

7.1 The proposed changes will ensure the Cabinet Procedure Rules are aligned with the scrutiny procedure rules agreed by Council. The Constitution needs to be amended to enable the arrangements to be put in place following the Annual meeting in 2016

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 If the Executive does not agree with the proposals, it would not be possible to implement them without the approval of the Leader who has statutory responsibility for executive decision making and delegations of executive functions as set in the Local Government Act 2000 as amended.

9. IMPLICATIONS

9.1 Legal Implications

The Leader has responsibility under s.9E of the Local Government Act 2000 to set out the arrangements for executive decision making. The Executive Procedure Rules detail the manner in which the Leader proposes to make decisions, largely through the Cabinet process. The Council cannot interfere or change the Leader's arrangements and for this reason, Council is only asked to ratify these procedure rules for inclusion within the Constitution.

9.2 Financial Implications

There are no specific financial implications arising from this report.

10. BACKGROUND DOCUMENTS

Report of the Design and Implementation Working Group

11. APPENDICES

- Appendix 1 Calendar
- Appendix 2 Executive Procedure Rules

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