

CABINET	AGENDA ITEM No. 11
7 NOVEMBER 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

EXECUTIVE PROCEDURE RULES

R E C O M M E N D A T I O N S	
FROM : Leader of the Council and Cabinet Member for Education, Skills and University	Deadline date: Council on 14 December 2016
The Cabinet are asked to:	
<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 1; 2. Request that Council note these changes at its meeting on 14 December 2016. 	

1. ORIGIN OF REPORT

- 1.1 Cabinet on 21 March approved changes to the Executive Procedure Rules (Part 4 - Section 7) to take account of the hybrid model and to update the procedures to take account of other matters.
- 1.2 The hybrid model was not adopted and therefore the changes proposed by the Executive were not reviewed by Council. Subsequently, Council set up a Committee Review Group to review the committee arrangements, including scrutiny arrangements. The Group reported to Council in October on the results of its review and will report in December on revised scrutiny procedure rules. The Group also recommends that the Executive consider retaining some of the principles of pre-decision scrutiny. Those recommendations are in this report.
- 1.3 The Executive Procedure Rules have been updated in a number of important ways and this report sets out those changes.

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 1** for ratification by Council.
- 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
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Date for relevant Council meeting	12 OCTOBER 2016
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4. BACKGROUND

- 4.1. Cabinet on 21 March approved changes to the Executive Procedure Rules to take account of the hybrid model and to update the procedures to take account of other matters.
- 4.2. Following the decision by Council at its annual meeting in May, to not proceed with the hybrid model, the Cabinet need to reconsider their procedures rules to take account of that decision.
- 4.3. The procedure rules have been amended to delete reference to the hybrid model. However, the Committee Review Group set up by Council to review the committee structure recommend that the Executive encourage pre-decision scrutiny. It considered that call in may be avoided by better use of pre-decision scrutiny and that this should be encouraged.
- 4.4. The hybrid model attempted to enshrine pre-scrutiny into the Council's decision making processes. However, the concern about the hybrid model was that it extended a 28 day timetable for decision making to a minimum of 42 days. In some cases this is impractical and goes beyond the statutory provisions. They favoured a more informal arrangement using scrutiny committees' current powers.
- 4.5. The constitution gives scrutiny committees the opportunity to pre-scrutinise executive decisions. The Forward Plan is a standing agenda item on all Scrutiny Committee agendas so each committee has an opportunity to see all decisions coming before Cabinet in the next month and any Scrutiny Committee can ask to review those reports prior to submission to Cabinet. These powers are rarely used.
- 4.6. Where decisions have gone to scrutiny before going to Cabinet, Cabinet have endorsed their recommendations. In comparison, in the last two years, there have been five requests to call in an executive decision and none were called in by the Committee. This demonstrates that pre-scrutiny can be more effective than call-in and would indicate that Scrutiny Committees could operate more effectively by relying on their existing rights to early engagement in key decisions.
- 4.7. The Group therefore recommend that the Executive consider including the following wording in their executive procedure rules:

5.3 By agreement with the relevant Cabinet member, the executive decision making timetable can be delayed to allow a scrutiny committee to consider and make recommendations on a policy proposal or proposed decision, prior to the decision being taken. Should there be any disagreement the Leader shall have the final say in any dispute between the Cabinet Member and the Scrutiny Committee requesting the item for pre-scrutiny.
- 4.8. The Group has made recommendations to Council to change the call in arrangements to ensure they are more efficient and avoid delays in implementing decisions and revised scrutiny procedure rules will be submitted to Council in December.
- 4.9. When consulting on the hybrid model, there was concern that there was no explicit provision for scrutiny committees to speak at Cabinet meetings. Paragraph 3.4 "business to be transacted" enables scrutiny to place an item on the executive agenda. However, there is no provision for the Chair of a scrutiny committee to speak at Cabinet on recommendations from his or her scrutiny committee. The Cabinet in March agreed to make provision for this and therefore the following provision has been retained.

Members of Scrutiny Committee: *Where a Scrutiny Committee has made recommendations to the Cabinet, the Cabinet meeting will consider the recommendations of the Scrutiny Committee before making a decision and the Chairman of the relevant Scrutiny Committee, or his or her nominee may speak in support of their Committee's recommendations subject to the Leader agreeing. (Paragraph 11.4)*

4.10. Other matters not relating to pre-scrutiny have been retained and are summarised below:

- (a) Public and Private Meetings of Cabinet – This section has been amended to comply with the Localism Act and subsequent regulations to give 28 clear days' notice of private meetings. (paragraph 1.7)
- (b) 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. (paragraph 2.4)
- (c) Forward Plan - This section has been amended to comply with the Localism Act and subsequent regulations in relation to key decisions. (paragraph 4)
- (d) Question Time: The previous executive procedure rules made provision for Cabinet to hold quarterly question time meetings. As this has not been used and no proposals were made by the previous working group to retain this process, it is proposed to delete this section.

5. CONSULTATION

- 5.1 Members were represented on the previous Design & Implementation Working Group and they raised the issue of speaking rights of scrutiny chairs at Cabinet meetings following consultation with scrutiny members.
- 5.2 The Committee Review Group on 30 August reviewed the current scrutiny arrangements as requested by Council and have made the recommendations to the October meeting of Council.

6. ANTICIPATED OUTCOMES

- 6.1 The proposed changes will ensure the Cabinet Procedure Rules are in line with current legislation and best practice.

7. REASONS FOR RECOMMENDATIONS

- 7.1. The Cabinet procedure rules were updated in March but since that time, Council decided not to implement a hybrid model. Reference to the hybrid model need to be removed from the procedure rules agreed by Cabinet.
- 7.2. The Committee Review Group was asked to review the Council's scrutiny arrangements and it has asked the Executive to consider its recommended changes to the rules. The amended rules will need to be reviewed by Council in December, as part of the review of the committee structure.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1. The Monitoring Officer is required to keep the constitution up to date, taking into account current legislation. The Cabinet may consider that speaking rights of scrutiny chairs are not required, as the Chair or Cabinet have the power to agree arrangements once a request is received. However, these are recommended to avoid confusion. There is no requirement to adopt pre-scrutiny arrangements as recommended in this report.

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 note 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

- 10.1 None

11. APPENDICES

Appendix 1 - Executive Procedure Rules