

## Section 7 - Executive Procedure Rules

### 1. POWERS AND DELEGATIONS

#### 1.1 Power to make executive decisions

The Leader may provide executive functions to be discharged by:

- (a) the Cabinet as a whole;
- (b) a Committee of the Cabinet;
- (c) an individual Member of the Cabinet;
- (d) an officer;
- (e) joint arrangements; or
- (f) another local authority.

#### 1.2 Delegation by the Leader

The Leader will present to the Annual Meeting of the Council a written record of delegations to be made by him or her for inclusion in the Council's Scheme of Delegation as set out in Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (a) the names and wards of the Members appointed to the Cabinet;
- (b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (c) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (d) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements, and the names of those Executive Members appointed to any joint Committee for the coming year; and
- (e) 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.

#### 1.3 Sub-delegation of executive functions

1.3.1 Where the Cabinet, a Committee of the Executive or an individual Member of the Cabinet is responsible for an executive function, they may not delegate further to a sub-Committee or officer without the consent of the Leader.

1.3.2 Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.3.3 Where the Cabinet or a Cabinet Member delegates to a Committee, or joint arrangements, it or they shall make known publicly the terms of reference and constitution of the committee. Likewise, when delegating to an officer, it or they shall make known the nature and extent of the delegation, together with details of any limitation on that delegation.

#### 1.4 Amendments to Delegations

- 1.4.1 The Leader may amend the scheme of delegation relating to Executive functions at any time. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Monitoring Officer will present a report to the next Ordinary meeting of the Council setting out the changes made by the Leader.
- 1.4.2 Where the Leader seeks to withdraw delegation from a Committee of the Cabinet, notice will be deemed to be served on that Committee when he or she has served it on its Chairman.
- 1.5 Conflicts of Interest**
- 1.5.1 Where any Cabinet Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct in Part 5 of this Constitution.
- 1.5.2 If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

## **2. PUBLIC AND PRIVATE MEETINGS**

- 2.1 Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 Section 5 of this Constitution.
- 2.2 Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.
- 2.3 All Cabinet meetings or any sub-committees where executive decisions are to be made will be held in public except when the Leader or Cabinet has resolved to:
- (a) exclude the press and public from all or part of a meeting in accordance with the Access to Information Rules or
  - (b) exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at the meeting in accordance with Council's standing orders.
- 2.4 Where the Cabinet or a sub-committee will need to meet in private to take a decision which involves exempt or confidential information, the meeting may only take place if:
- (a) notice has been published at the Town Hall and on the Council's website giving the reasons for holding the meeting in private at least 28 clear (calendar) days before the meeting. This notice will be included in the forward plan.
  - (b) a further notice is published at the Town Hall and on the Council's website at least 5 clear days before the meeting giving the reasons for holding the meeting in private and any representations received. This will form part of the Cabinet agenda.

2.5 Where the date of a private meeting of Cabinet or its sub-committees makes compliance with (a) and (b) impractical, the meeting may only be held and any decision taken if agreement is obtained that the meeting is urgent and cannot reasonably be deferred from:

- (a) the Chairman of the relevant Scrutiny Committee
- (b) If there is no Chairman or he/she is unable to act, then the Mayor or
- (c) in his/her absence, the Deputy Mayor

2.6 A notice setting out the reasons why the private meeting is urgent and cannot reasonably be deferred must be published at the Town Hall and on the Council's website as soon as reasonably practicable after agreement has been obtained.<sup>1</sup>

### **3. CABINET MEETINGS**

#### **3.1 Frequency of Cabinet meetings**

The Cabinet will meet up to 10 times per municipal year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices, at the Town Hall or another location to be agreed by the Leader.

#### **3.2 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be three Members.

#### **3.3 Chairman**

The Leader will preside at any meeting of the Executive or its Committees at which he or she is present, or may appoint another person to do so.

#### **3.4 Business to be transacted**

At each meeting of the Cabinet the following business will be conducted:

- (a) Apologies for absence from Members
- (b) Receive the minutes of the previous meeting.
- (c) Declarations of interest, if any
- (d) To receive any petitions
- (e) Matters referred to the Cabinet by a scrutiny committee or by the Council for reconsideration by the Cabinet
- (f) Consideration of business on the Forward Plan
  
- (g) Consideration of other reports from a scrutiny committee

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<sup>1</sup> *(The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.)*

- (h) Urgent Items of business with the consent of the Leader provided the rules under paragraph 4 to 8 below have been followed. The Leader will explain why the matter is urgent and the reasons given will be recorded in Cabinet's minutes.

### **3.5 Consultation**

All reports to the Cabinet from any Cabinet Member or an officer on proposals relating to the Budget and Policy Framework must include details of the nature, extent and outcome of consultation with the Scrutiny Committees and with stakeholders. Reports about other matters will include details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **3.6 The Executive agenda**

- 3.6.1 The Leader will decide upon the schedule for the meetings of the Cabinet. He or she may put on the agenda of any Executive meeting any matter which he or she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Cabinet Member or officer in respect of that matter. The Monitoring Officer will comply with the Leader's requests in this respect.
- 3.6.2 The Monitoring Officer will ensure that an item is placed on the agenda of the next available meeting of the Cabinet where a scrutiny committee, or the full Council have resolved that an item be considered by the Cabinet.
- 3.6.3 Any Member or Committee may ask the Leader to put an item on the agenda of an Executive meeting for consideration. If the Leader agrees, the Monitoring Officer will put an item on the agenda. The item will give the name of the Member or Committee that asked for the item to be considered.
- 3.6.4 The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.
- 3.6.5 The Chief Executive and Directors may include an item on the agenda of a Cabinet meeting and shall be entitled to attend that meeting, speak on the item in question and have his or her views recorded in the minutes of the meeting.

## **4. PROCEDURE BEFORE TAKING KEY DECISIONS**

- 4.1 Subject to paragraphs 6 (urgency) and 7 (special urgency) below, a key decision may not be taken unless:
  - (a) the Forward Plan of Executive Decisions has been published and includes the matter in question for a period of at least 28 clear (calendar) days;

- (b) at least five clear working days have elapsed since the publication of a report; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees, notice of the meeting has been given in accordance with Access to Information Rules Part 4 Section 5 of the Constitution.

## **5. THE FORWARD PLAN OF EXECUTIVE DECISIONS**

5.1 The Forward Plan of Executive Decisions will contain all matters subject to an executive decision to be taken by the Cabinet, a Committee of the Cabinet, individual Cabinet Members, officer key decisions, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Forward Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) that a key decision is being made on behalf of the local authority
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision taker is an individual, his or her name and title, if any and where the decision taker is a body, its name and details of membership;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.
- (h) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available.
- (i) that other documents relevant to those matters may be submitted to the decision maker; and
- (j) the procedure for requesting details of those documents (if any) as they become available.

5.2 Exempt information need not be included in the Forward Plan and confidential information cannot be included.

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. If the Cabinet Member and Scrutiny Chair are unable to reach agreement upon whether a matter should be referred for pre-scrutiny, the Leader will make the final decision as to whether the matter should be referred to a Scrutiny Committee before the decision is made .

## **6. GENERAL EXCEPTION - URGENCY**

6.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to paragraph 7 below, the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of

- the first period to which the next forward plan relates;
- (b) the Monitoring Officer has informed the Chairman of the relevant Scrutiny Committee, or if there is no such person, each Member of that Committee by notice in writing, of the matter to which the decision is to be made;
  - (c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council; and
  - (d) at least five clear working days have elapsed since the Monitoring Officer complied with paragraphs 6.1 (b) and (c) above.
- 6.2 Where such a decision is taken collectively, it must be taken in public subject to these provisions.

## **7. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken the provisions in paragraph 6 above cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the relevant Scrutiny Committee, or if the Chairman is unable to act, then the agreement of the Mayor, or in his or her absence the Deputy Mayor will suffice.

## **8. REPORTS ON SPECIAL URGENCY DECISIONS**

The Leader will submit reports to the Council on any Executive decisions taken in the circumstances set out in paragraph 7 (Special Urgency) above in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## **9. RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the Monitoring Officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable and in accordance with the timetable for call-in arrangements. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **10. NOTICE OF MEETING OF THE CABINET**

Members of the Cabinet or its Committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **11. ATTENDANCE AT MEETING OF THE CABINET**

- 11.1 **Cabinet Members:** All Cabinet Members will be served notice of all meetings of Committees of the Cabinet, whether or not they are Members of that Committee.

All Cabinet Members are entitled to attend any meeting of any Committee of the Executive.

- 11.2 **Officers:** Directors with an item to be discussed at a public meeting of the Cabinet shall be able to attend the meeting and speak to that item and to have their views recorded.
- 11.3 **Ward members:** Ward Members shall be served notice of meetings of the Cabinet where the Cabinet will discuss an item which affects that Member's Ward. Ward Members shall have the right to address the Cabinet and make representations or ask questions on behalf of their constituents who will not be entitled to participate or ask questions themselves. This includes when exempt matters are under discussion, where the matter relates to the member's ward, subject to the same conditions as apply to attendance at committee or sub-committee meetings set out in Part 4, Section 1, paragraph 7.5.
- 11.4 **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.

## 12. DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET

### 12.1 Reports intended to be taken into account

Where a Cabinet Member receives an officer report which he or she intends to take into account in making any key decision, then he or she will not make the decision until at least five clear days after receipt of that report.

### 12.2 Record of individual decision

By no later than 5.30pm on the second working day after an executive decision has been taken by a Cabinet Member or a key decision has been taken by an officer, he or she will prepare, or instruct the Monitoring Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The rules set out in Section 5 – Access to Information Procedures will also apply to the making of decisions by Cabinet Members. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## 13. CABINET WORKING PARTIES

The Leader, the Cabinet or a Cabinet Member may only appoint a working party to advise about a particular issue if the matter cannot be referred to a Scrutiny Committee. The Leader, Cabinet or Cabinet Member will decide how many Members and officers the working party will have, and whether Members from more than one political group should be represented. The working party will not have any decision-making powers, but will make recommendations and reports to the decision-maker that appointed it.

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