



# Part 4D

## Executive Procedure Rules

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## **PART 4 - EXECUTIVE PROCEDURE RULES**

### **1. WHO MAY MAKE EXECUTIVE DECISIONS?**

The Leader of the Council (the 'Leader') may discharge any executive function of the Council or may provide for any executive function of the Council to be discharged by the Cabinet; a Committee or Board of the Cabinet; an individual Cabinet Member; an officer of the Council; an area committee or under joint arrangements.

### **2. APPOINTMENTS AND DELEGATION BY THE LEADER**

2.1 At the annual meeting of the Council, the Leader will present to the Council the following detail regarding executive arrangements -

- a) the names of the Members appointed to the Cabinet;
- b) the name of the Cabinet Member appointed Deputy Leader of the Council (the "Deputy Leader");
- c) the extent of any decision making delegated to Cabinet members individually, including details of the limitation on their delegation;
- d) the terms of reference and membership of any Cabinet Committees established, including details of the limitation on their delegation;
- e) the nature and extent of any delegation of executive functions to area committees, any other Council or any joint arrangements and the membership of any joint committee for the coming year; and
- f) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officers to whom the delegations are made.

2.2 The details of any delegations determined by the Leader are recorded in Sections 7-9 and 12 of Part 3 (Responsibility for Functions) to this Constitution.

### **3. DEPUTY LEADER OF THE COUNCIL**

3.1 The Leader must give written notice of the appointment of the Deputy Leader to both the person who he/she is appointing as Deputy Leader and to the Monitoring Officer. The appointment will take effect upon receipt of the Leader's written notice by both the person who the Leader is appointing as Deputy Leader and also the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of the Deputy Leader and will report the appointment to Council and the Cabinet at the earliest opportunity.

3.2 The Deputy Leader will hold office until the end of the Leader's term of office unless:

- a) he/she resigns from the office of Deputy Leader;
- b) he/she is no longer a Councillor;

- c) he/she is no longer a member of the Cabinet; or
- d) he/she is removed by the Leader who must give written notice of such removal to both the Deputy Leader and to the Monitoring Officer. The removal of the Deputy Leader will take effect upon receipt of the Leader's written notice by both the Deputy Leader and the Monitoring Officer. The Monitoring Officer will keep a written record of any removal of the Deputy Leader and the Leader will report any such removal to Council and the Cabinet at the earliest opportunity.

3.3 Where a vacancy occurs in the office of Deputy Leader, the Leader must appoint another person in the manner shown above.

3.4 It is the role of the Deputy Leader to act in the place of the Leader in circumstances where the Leader is unable to act or the office of Leader is vacant.

3.5 If, for any reason:

- a) the Leader is unable to act or the office of Leader is vacant; and
- b) the Deputy Leader is unable to act or the office of Deputy Leader is vacant,

the Cabinet must act in the place of the Leader or arrange for a Cabinet Member to act in his/her place.

#### **4. CABINET MEMBERS**

4.1 When appointing Cabinet Members, the Leader shall determine what Portfolios or areas of responsibility those members shall hold. When appointing a Cabinet Member the Leader must give written notice of the appointment and of the Portfolio to both the person who he/she is appointing and to the Monitoring Officer.

4.2 The appointment of the Cabinet Member will take effect upon receipt of the Leader's written notice by both the person who the Leader is appointing as an Executive Member and the Monitoring Officer. The Monitoring Officer will keep a written record of the appointment of a Cabinet Member and the Leader will report the appointment and the portfolio to Council and the Cabinet at the earliest opportunity.

4.3 A Cabinet Member will hold office until the end of the Leader's term of office unless:

- a) he/she resigns from the office of Cabinet Member; or
- b) he/she is no longer a Councillor; or
- c) he/she is removed by the Leader who must give written notice of such removal to both the Cabinet Member and to the Monitoring Officer. The removal of a Cabinet Member will take effect upon receipt of the Leader's written notice by both the Cabinet Member and the Monitoring Officer. The

Monitoring Officer will keep a written record of any removal of a Cabinet Member and the Leader will report any such removal to Council and the Cabinet at the earliest opportunity.

## **5. DELEGATION AND EXERCISE OF EXECUTIVE FUNCTIONS**

At times other than at the Annual Meeting (Procedure Rule 2 above refers) the Leader shall inform the Monitoring Officer of the terms of reference and delegation arrangements of the Cabinet, Cabinet Sub-Committees and Boards and of the delegation of executive functions to area committees, Officers or to be undertaken under joint arrangements. The Monitoring Officer shall notify the Council and amend the Constitution at the earliest opportunity.

## **6. CONFLICTS OF INTEREST**

- 6.1 Members of the Cabinet will have due regard to the Members' Code of Conduct at Part 5 of the Council's Constitution.
- 6.2 If the exercise of an executive function has been delegated by the Leader to a Cabinet Member, a Committee of the Cabinet, an area committee or an Officer, and should a conflict of interest arise meaning that person or body cannot make a decision, then the function shall be exercised in the first instance by
  - a) in the case of a Cabinet Member, the Leader;
  - b) in the case of a Cabinet Committee or an area committee, the Cabinet; or
  - c) in the case of an Officer, the relevant Cabinet Member.
- 6.3 If the exercise of an executive function has been delegated by a Cabinet Member, a Committee of the Cabinet or an area committee to an Officer and should a conflict of interest arise meaning that person cannot make a decision, then the function shall be exercised by the person or body who delegated the power.
- 6.4 If the Leader of the Council is personally conflicted on a matter that has been reserved to the Leader, then the Deputy Leader shall act in place of the Leader. If both the Leader and the Deputy Leader are conflicted, the matter shall be reserved to the Cabinet.

## **7. MEETINGS OF THE CABINET**

- 7.1 The Cabinet will meet at least 10 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.
- 7.2 The Cabinet shall meet in public except where the meeting is to consider confidential or exempt information and where due notice of the intention to consider business in private has been given and the meeting has resolved to exclude the public in accordance with Access to Information Procedure Rules at

Part 4B of this Constitution. Meetings and business shall be conducted in accordance with the requirements of Council Procedure Rules, Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules

- 7.3 The quorum for a meeting of the Cabinet shall be 4.
- 7.4 The Leader will chair meetings of the Cabinet. In the absence of the Leader, the statutory Deputy Leader shall chair the meeting. In the absence of both the Leader and Deputy Leader, the members of the Cabinet in attendance shall appoint a person from among those present to preside at that meeting.
- 7.5 At each meeting of the Cabinet the following business shall be conducted:-
- a) declarations of interest, if any;
  - b) consideration of the minutes of the last meeting;
  - c) public question time;
  - d) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions of Budget and Policy Framework Procedure Rules or Overview and Scrutiny Procedure Rules set out in Parts 4C and E respectively of this Constitution;
  - e) consideration of reports from Overview and Scrutiny Committees; and
  - f) matters set out in the agenda for the meeting which shall indicate which are key decisions and have been treated as such in accordance with the Access to Information Procedure Rules;
  - g) matters set out in the agenda for the meeting for consideration as private business where notice has been given in accordance with the Access to Information Procedure Rules.
- 7.6 Other business that may be considered by the Cabinet shall be:-
- a) Any member of the Cabinet or Chair of an Overview and Scrutiny Committee may put on the agenda of any Cabinet meeting any matter for which the Council holds a responsibility or which affects the Borough. The Chief Executive will comply with all lawful requests in this respect.
  - b) Any member of the Council may request an item be put on the agenda of any Cabinet meeting in respect of any matter for which the Council holds a responsibility or which affects the Borough. The Chief Executive will only refuse such a request for some substantial reason. The Cabinet agenda shall state the name of the member requesting the item, the Member shall be invited to attend the meeting (whether in public or private session). The Chief Executive has discretion to limit the number of such items of business at individual Cabinet meetings.
  - c) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

7.7 Unless the Leader has directed otherwise, the Cabinet may further delegate their executive decision making powers to a Committee of the Cabinet, an area committee or to an officer.

7.8 All reports to the Cabinet on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. The level of consultation required will be appropriate to the nature of the matter under consideration. Reports about other matters submitted to the Cabinet or to any another executive decision maker shall set out the details and outcome of any consultation as appropriate.

## **8. DECISION MAKING BY INDIVIDUAL CABINET MEMBERS**

8.1 Individual Cabinet Members may exercise such executive decision making powers as determined by the Leader and set out in the Scheme of Delegation to Individual Cabinet Members at Section 8 to part 3 to this Constitution. Such matters must be dealt with and determined in accordance with the requirements of Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules and on consideration of a prepared report.

8.2 Unless the Leader has directed otherwise, an Individual Cabinet Member may further delegate their executive decision making powers to an area committee or to an Officer.

## **9. DECISION MAKING BY COMMITTEES OF THE CABINET**

9.1 Committees and Boards of the Cabinet may be appointed by the Leader who shall determine membership and delegation to the Committees and Boards which shall be set out at Section 7 of Part 3 to this Constitution. Meetings shall be held in public except where the meeting is to consider confidential or exempt information and where due notice of the intention to consider business in private has been given and the meeting has resolved to exclude the public in accordance with Access to Information Rules. Meetings and business shall be conducted in accordance with the requirements of Council Procedure Rules, Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

9.2 Unless the Leader has directed otherwise, a Committee of the Cabinet may further delegate their executive decision making powers to an area committee or to an officer.

9.3 At each meeting of a Committee of the Cabinet the following business shall be conducted:-

- a) declarations of interest, if any;
- b) consideration of the minutes of the last meeting;

- c) public question time;
- d) matters set out in the agenda for the meeting which shall indicate which are key decisions and have been treated as such in accordance with the Access to Information Procedure Rules.
- e) matters set out in the agenda for the meeting for consideration as private business where notice has been given in accordance with the Access to Information Procedure Rules.

9.4 The quorum of a Cabinet Committee shall be two.

## **10. AREA COMMITTEES EXERCISING DELEGATED EXECUTIVE FUNCTIONS**

10.1 The Leader may delegate executive functions to area committees which shall be set out the Scheme of Delegation. Meetings shall be conducted and Key Decisions and private business considered in accordance with the requirements of Council Procedure Rules, Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

10.2 Unless the Leader has directed otherwise, an area committee may further delegate their executive decision making powers to an officer.

## **11. OFFICERS EXERCISING DELEGATED EXECUTIVE FUNCTIONS**

The Leader may delegate executive functions to Officers which shall be set out the Scheme of Delegation. Key Decisions will be dealt with in accordance with the requirements of Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

## **12. DECISION MAKING UNDER JOINT ARRANGEMENTS OR BY ANOTHER AUTHORITY**

The Leader may arrange for executive functions to be delivered through joint arrangements or by another authority. Procedural matters in respect of functions exercised through a joint arrangement will comply with the law and with this Constitution, varied only to align the procedural arrangements of the partner authority or authorities and as specified in a Heads of Terms agreement. Procedural matters in respect of functions exercised by another local authority will comply with the law and as specified in a Heads of Terms agreement.