

# **CABINET PROCEDURE RULES**

## **1. HOW DOES THE CABINET OPERATE?**

### **1.01 Who May Make Executive Decisions?**

The arrangements for the discharge of Executive functions may be set out in the Executive Arrangements adopted by the Council. If they are not set out there, then the Leader of the Council (herein after referred to as the Leader) may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a committee of the Cabinet;
- (iii) an individual Member of the Cabinet;
- (iv) an officer;
- (v) an Area Committee;
- (vi) joint arrangements; or
- (vii) another Local Authority.

### **1.02 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's Scheme of Delegation at 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:

- (i) the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of the Cabinet Members appointed to them;
- (iv) 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
- (v) 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.

### **1.03 Sub-Delegation of Cabinet Functions**

- (a) 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 an Area Committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.

- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

#### **1.04 The Council's Scheme of Delegation and Executive Functions**

- (a) Subject to (b) below the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader is able to decide whether to delegate Executive functions, and he/she may amend the Scheme of Delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Paid Service 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 Head of Paid Service will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chair.

#### **1.05 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) 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 and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.06 Cabinet Meetings - When and Where?**

The Cabinet will meet at least nine 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.

#### **1.07 August Recess**

There shall be a recess for the period of the month of August and during this period no meeting of the Council, the Cabinet or of any Committee of it shall be held except to transact business of urgency, the transaction of which cannot with propriety be postponed.

#### **1.08 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be two, one of whom must be the Leader or Deputy Leader.

#### **1.09 How are Decisions to be taken by the Cabinet?**

- (a) 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 of the Constitution.

- (b) 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. HOW ARE CABINET MEETINGS CONDUCTED?**

### **2.01 Who Presides?**

If the Leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

### **2.02 Who may Attend?**

Cabinet meetings (but not briefing meetings) will be open to 'non-Cabinet Councillors' and members of the public.

### **2.03 What Business?**

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

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in part 4 of this Constitution;
- (iv) consideration of reports from the Overview and Scrutiny Committee; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution;
- (vi) matters for information or future report.

### **2.04 Consultation**

All reports to the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### **2.05 Who can put Items on the Cabinet Agenda**

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or officer in respect of that matter. The Head of Paid Service will comply with the Leader's requests in this respect.

- (i) Any Member of the Cabinet may require the Head of Paid Service to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Head of Paid Service will comply.

- (ii) The Head of Paid Service will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Committee or the Full Council have resolved that an item be considered by the Cabinet. However, there may only be up to three such items on any one agenda.
- (iii) Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. [This individual will be invited to attend the meeting, whether or not it is a public meeting.] However, there may only be up to three such items per Cabinet meeting.
- (iv) 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 Head of Paid Service 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. DECISION-MAKING BY INDIVIDUAL CABINET MEMBERS**

- 3.01** All decision making powers must be exercised in accordance with the Law, all of the rules, procedures, codes and protocols contained in the Council's Constitution (including the Access to Information Rules) and within Council policy.
- 3.02** The decisions must be made in discussion with one or more of the following as appropriate:
  - The Managing Director
  - The appropriate Director
  - The Council Solicitor
  - The S151 Officer
  - The Policy and Governance Manager
  - Where there are minor cross-cutting implications, other appropriate Portfolio Holder(s)
- 3.03** The Cabinet Member must take into account professional, legal and financial implications in making any decisions. If any of the above officers give advice that the decision would fall within one of the exceptions above then the matter shall be decided by the Cabinet acting collectively.
- 3.04** Where it is not clear in which Portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and the decision needs to be taken urgently, then the Leader may take the decision.
- 3.05** When a Cabinet Member takes an individual decision, the following steps must be taken:
  - A detailed report must be published at least 5 clear working days prior to the decision being taken. Notice of when a decision is to be taken will also be included in the Forward Plan.

- There will be the opportunity for representations to be made following the report being published. These will be forwarded to the decision maker.
- Decisions will be recorded on a form and countersigned by one of the above officers to confirm that professional advice has been given and that legal and financial implications have been made known to the decision maker.
- In the case of Key Decisions, the reasons for the decision must be identified and details of any alternative options considered and rejected at the time of the decision must be recorded. Key Decisions will also have to have been published in the Forward Plan in advance of the decision being taken.
- The advising officer must keep a record of the decision that has been countersigned by the Cabinet Member and a copy of the form should be sent electronically to the Democratic and Electoral Services Team.
- The decision will be published electronically and Members may still exercise the call-in facility in the same manner as for a full Cabinet decision.
- A record must be made of any conflict of interest declared by a Cabinet Member, and in respect of any declared conflict of interest, a note of any dispensation granted.
- Where a Cabinet Member has a Disclosable Pecuniary Interest in a matter for which they have Individual Decision-making power, they must refer the matter to the Leader or to the Cabinet for decision.