

# **PART 3 - THE EXECUTIVE / CABINET**

## **A - RESPONSIBILITIES AND PROCEDURE RULES FOR CABINET**

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**A.1 WHAT CAN CABINET DECIDE?****A1.1 The Role Of Cabinet**

The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Authority, whether by law or under this Constitution.

**A1.2 Key Decisions**

All 'key decisions', as set out in the Forward Plan, will be taken by the Cabinet, a sub-committee of Cabinet, an individual Cabinet member, or officers acting under delegated powers. 'Key decisions' are defined in Part 1 B Article 12.3b).

**A.2 HOW DOES THE CABINET OPERATE?****A2.1 Who may make executive decisions?**

The Leader will decide how the arrangements for the discharge of executive functions are to be exercised from time to time as appears necessary. The Leader may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a sub-committee of the Cabinet;
- iii) an individual Cabinet Member of the Cabinet;
- iv) an Officer;
- v) joint arrangements; or
- vi) another local authority

**A2.2 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. This 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 the 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 Cabinet Members appointed to them.
- iv) The nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year.
- 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.

#### Substitute Cabinet Members

- vi) Any Cabinet Member can act as a substitute for another Cabinet Member at a meeting. The substitute Member will be able to act as a substitute for one meeting only. The ordinary Member will automatically replace the substitute at the next meeting unless the substitute is re-appointed as set out below.
- vii) Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.
- viii) Substitute Members may attend meetings in that capacity only:
  - a) To take the place of the ordinary Councillor for whom they are designated substitute for that meeting;
  - b) Where the ordinary Councillor will be absent for the whole of the meeting;
  - c) After notifying the Democratic Services Manager by 12.00 noon on the day of the meeting of the intended substitution.

#### **A2.3 Sub-delegation of executive 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 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.

#### A2.4 **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 Part 1B of this Constitution.
- b) The Leader 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 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.
- c) Where the Leader seeks to withdraw delegation from a committee or panel, notice will be deemed to be served on that committee when he/she has served it on its Chair.

#### A2.5 **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 Councillors in Part 7A 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 Councillors in Part 7A of this Constitution.
- c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Councillor or Officer, and should a conflict of interest arise, 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 Councillors' Code of Conduct in Part 7A of this Constitution.

#### A2.6 **Frequency of Cabinet meetings**

The frequency and timings of meetings of the Cabinet will be determined by the Leader. The Cabinet intends to meet at least **12**

times per year at times to be agreed by the Leader at which it anticipates that the majority of business will be undertaken in public. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

## **A2.7 Private Meetings of Cabinet**

**A2.7.1** If the Cabinet is to hold a meeting in private and this means a meeting or part of a meeting during which the public are excluded, then at least 28 clear days before the private meeting it must:

- (a) make available at the Council offices a notice of intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.

The notice must include a statement of reasons for the meeting to be held in private.

Following that, at least 5 clear days before a private meeting, the Council must:

- (a) make available at its offices a further notice of its intention to hold the meeting in private; and
- (b) publish that notice on the Council's website.

The notice must include a statement of the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representation.

**A2.7.2** Where the date by which a private meeting must be held makes compliance with Rule A2.7.1 impracticable, the meeting may only be held in private where the Cabinet has agreement from:-

- (a) the Chair of the relevant Overview and Scrutiny Panel; or
- (b) if he/she is unable to act, the Chair of the Council;
- (c) where there is no chair, the vice-chair of the Council

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Cabinet has obtained agreement to hold an urgent private meeting it must make available at the Council offices a notice setting out the reasons why

the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

- A2.7.3 Only Cabinet Members are entitled to attend private meetings of the Cabinet and the Officers, who may be required to provide advice.

## A2.8 **Meetings of Cabinet**

Wherever possible, the Cabinet will meet in public and the provisions of the Access to Information Procedure Rules shall apply as set out in Part 8 E12 Application of Rules to the Cabinet. Other Members of the Council and the press and public may attend these meetings.

Zero Debate – The Chair may propose items that do not need to be debated by Members. These should be non-contentious and where no member of the public has provided notice of the intention to speak on them. At least 24 hours before the meeting, the items in question shall be made available to Democratic Services. These items will then be considered and disposed of en bloc, allowing the remainder of the meeting to focus and debate the issues that Councillors want to discuss.

Speaking - The Chair may consider whether non-Cabinet Members may speak (but not vote) on any item under consideration by Cabinet and may set out the protocol under which non-Cabinet Members will be given the opportunity to speak.

Public Speaking - Members of the public may address Cabinet or ask questions of Cabinet in respect of any Part I agenda item, provided notice of the intention has been given to Democratic Services by 12 noon on the day of the meeting. Each member of the public will be allowed up to **3 minutes**, subject to the total time allowed for public comment or questions, not exceeding **9 minutes** per agenda item.

## A2.9 **Quorum**

The quorum for a meeting of the Cabinet shall be one quarter of the total number of Members of the Cabinet (including the Leader or nominated deputy) or 3 (including the Leader or nominated deputy) whichever is the larger. The quorum for a sub-committee of the Cabinet shall be fixed when the committee is established. Any Cabinet Member may act as a substitute for any substantive Member of a Cabinet in a Cabinet sub-committee.

## A2.10 **Cabinet Decisions**

- a) Executive decisions which have been delegated to the Cabinet as a whole will be taken by a meeting convened in accordance with the Access to Information Procedure Rules in Part 8 E of the Constitution.
- b) Where executive decisions are delegated to a sub-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.

#### **A2.11 Items on Cabinet Agenda**

The Monitoring Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to 2 such items on any one agenda.

#### **A2.12 Items from Cabinet Members**

Any Member of the Cabinet 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.

#### **A2.13 Items from Head of Paid Services / Monitoring Officer / Head of Finance**

The Head of Paid Services, the Monitoring Officer or Head of Finance may include an item for consideration on the agenda of a Cabinet meeting and may require the Monitoring Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Head of Finance or 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.

#### **A2.14 Notice of Items for Agenda**

In all cases above, there must be a written report to support the item available to the Cabinet at least five clear working days before the Cabinet meeting at which it is proposed to be considered, unless the Leader decides that a shorter period is acceptable on the grounds of urgency. If a key decision may be involved, the



procedure set out in the Access to Information Procedure Rules at Part 8E of the Constitution shall be followed.

## A2.15 **Cabinet Transformation Sub-Committee**

### Purpose

Cabinet has delegated to the Sub-Committee the following functions:-

- To approve the Transformation Strategy and any subsequent amendments
- To approve any projects within the Strategy that would require Cabinet approval.
- To monitor progress on the delivery of the Transformation Strategy
- From time to time to report progress to Cabinet

### Membership

The Sub Committee comprises the Leader of the Council and Cabinet Members as determined by the Leader, details of which are published on the council website.

The Sub Committee will be chaired by the Leader of the Council.

### Quorum

The quorum for the Sub-Committee shall be 2. Any Cabinet Member may act as substitute for the substantive Cabinet members identified above.

### Frequency

Quarterly, with additional meetings as required

### Type

Committee of Cabinet

# **PART 3 - THE EXECUTIVE / CABINET**

## **B - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

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## **B – Budget and Policy Framework Procedure Rules**

### **1. THE FRAMEWORK FOR CABINET DECISIONS**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### **2. PROCESS FOR DEVELOPING THE FRAMEWORK**

- a) The Cabinet will publicise the proposed Framework by including in the forward plan published at the Council's offices and publicised by other methods – e.g. on the website, in local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of the initial proposals. The Chairs of the relevant Overview and Scrutiny Panel will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. Where the proposals relate to the development of the plans set out in Article 4, the relevant Overview and Scrutiny Panel may wish to respond to the Cabinet during the consultation period. The relevant Overview and Scrutiny Panel may respond as part of the consultation process in respect of the preparation of the annual budget. The Cabinet will take any response from the relevant Overview and Scrutiny Panel into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's responses.
- c) Once the Cabinet has approved the firm proposals, the Monitoring Officer will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.
- f) The decision will be publicised and a copy shall be given to the Leader.
- g) The Leader will be informed by the Council of its objections to the draft plan or strategy and will give him instructions that the Executive shall reconsider the proposals in light of the objections within 7 clear working

days, starting with the day following the date the Leader received the instructions.

- h) The Leader may, within 7 clear working days:
- i) submit a revision of the proposals with the Executive's reasons for any amendments to the Council; or
  - ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the reasons for this;
  - iii) at the same time, the Monitoring Officer will be notified by the Leader of the position and shall, within 5 working days, call a Council meeting.
- i) The Council called in response to h) iii) above must, when:
- i) amending the draft plan or strategy or revised draft plan or strategy;
  - ii) approving for submission to the Government any plan or strategy or part; or
  - iii) adopting, with or without modification, the plan or strategy;
- take into account any amendments to the plan or strategy, the Executive's reasons for them, any disagreements the Executive has with the Council's objections and its reasons for this.
- j) The decision shall then be made public and shall be implemented immediately.
- k) An in-principle decision will automatically become effective 5 clear working days from the date of the Council's decision, unless the Leader informs the Monitoring Officer in writing within 5 clear working days that he/she objects to the decision becoming effective and provides reasons why.
- l) Where, before 11<sup>th</sup> March<sup>1</sup> in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:
- i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - ii) estimates of other amounts to be used for the purposes of such a calculation;
  - iii) estimates of such a calculation; or
  - iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992;

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph m).

- m) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph l) i), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- n) Where the Council gives instructions in accordance with paragraph m), it must specify a period of at least 5 working days, beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may:
- i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement; or
  - iii) at the same time, the Monitoring Officer will be notified by the Leader of the position and shall, within 5 working days, call a Council meeting.
- o) When the period specified by the Council, referred to in paragraph n) has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph l) i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:
- i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - ii) the Cabinet's reasons for that disagreement;
  - iii) any disagreement that the Cabinet has with any of the Council's objections; and
  - iv) the Cabinet's reasons for that disagreement;

which the Leader has submitted to the Council, or informed the Council of, within the period specified.

- p) Paragraphs l) to o) shall not apply in relation to:
- i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

- q) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rules C5 and C6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

### **3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) Subject to the provisions of Rule C5 (virement) the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule C4 below.
- b) If the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Head of Finance as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule C4 (urgent decisions outside the budget and policy framework) shall apply.

### **4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- a) The Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i) if it is not practical to convene a quorate meeting of the Council; and
  - ii) if the Chair of the relevant Overview and Scrutiny Panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Council and the Chair of the relevant Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be notified on the record of the decision. In the absence of the Chair of the relevant Overview and Scrutiny Panel the consent of the Mayor, and in the absence of both, Deputy Mayor will be sufficient.

- b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as matter of urgency.

## 5. VIREMENT

- a) The provisions for virement are set out in Rules F1.10 – F1.19 of the Finance Rules. The rules are applied to virement between budgets and the levels delegated to officers are:
- Directors can vire up to £25,000 in respect of budgets under their control without the consent of the Head of Finance
  - The Head of Finance, in consultation (via email if appropriate) with the Corporate Leadership Team can vire from £25,000 up to £100,000 without consent of Cabinet
  - Cabinet can vire from £100,001 up to £500,000 without the consent of the Council.
- b) In each case the level of each virement is as specified in the Finance Rules. In addition virements from or to any one budget, shall not exceed the limit given out in the Finance Rules in any one financial year so that, for example, for any one budget head the totality of virements is capped at £500,000.

## 6. IN-YEAR CHANGES TO POLICY FRAMEWORK

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or Officers or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation but where the existing policy document is silent on the matter under consideration.

## 7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- a) Where at least (i) three members of the Council [one of whom must be a Member of the relevant Overview and Scrutiny Panel] or (ii) any five members of the Council, are of the opinion that an executive decision is,



or, if made, would be contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then they shall receive advice from the Monitoring Officer and/or Head of Finance as appropriate at the Panel meeting to consider the call-in.

b) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Head of Finance is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the relevant Overview and Scrutiny Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall consider the item at the next scheduled ordinary full Council or an extraordinary full Council meeting within 28 days if appropriate. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Head of Finance. The Council may either:

- i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way, or
  - iii) Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Head of Finance.
- c) Exceptions to this procedure:-

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- i) that the relevant Overview and Scrutiny Panel may only call-in two decisions per Cabinet meeting; and
- ii) any call-in can be invoked in respect to a decision only once.