

Part 4, Section 4:

Executive Procedure Rules

Contents

Part 4, Section 4:	1
Executive Procedure Rules	1
Responsibility for Executive functions.....	1
Conflicts of Interest	3
Cabinet meetings.....	4
Business.....	5
Attending and addressing Cabinet.....	6
Taking Executive decisions	7
Records of Executive Decisions taken	10
Implementation of Executive Decisions.....	12
Decisions which appear to have been wrongly treated	13
Access to Information.....	14
Questions	Error! Bookmark not defined.

Responsibility for Executive functions

4.4.1 The Council operates a Leader and Cabinet style of governance¹ as set out in **Article 5** of this constitution. This means that the Council and its committees are responsible for anything expressly reserved to them by law or in this Constitution (Non-Executive functions) and the Leader and Cabinet make all other decisions for the Council (Executive functions).

Who can make executive decisions

4.4.2 The Leader is responsible in law for the discharge of the Executive functions. They may:

4.4.2.1 discharge any executive functions; or

¹ Section 9C(3) and (5) of Part 1A of the Local Government Act 2000

- 4.4.2.2 arrange for the discharge of executive functions collectively by all councillors appointed to the Cabinet (see further **Article 5** at Part 2 of the Constitution); or
- 4.4.2.3 delegate the discharge of executive functions to:
 - 4.4.2.3.1 an individual Cabinet Member²;
 - 4.4.2.3.2 a committee of the Cabinet;
 - 4.4.2.3.3 an officer;
 - 4.4.2.3.4 joint arrangements³; or
 - 4.4.2.3.5 another local authority⁴.
- 4.4.3 The **Council Procedure Rules** (see further Part 4, Section 1 of the Constitution) require the Leader to inform the annual meeting of Council of the number of councillors to be appointed to the Cabinet, their identity and portfolios of responsibility (the “Executive Arrangements”). Following the annual meeting of the Council, the Proper Officer will update the constitution to reflect the Executive Arrangements, including:
 - 4.4.3.1 the extent of any authority delegated to individual Cabinet Members, including any limitation on their authority;
 - 4.4.3.2 the terms of reference and constitution of such Cabinet committees or panels as the Leader appoints;
 - 4.4.3.3 the nature and extent of any delegation of executive functions to any other authority or any joint arrangements; and
 - 4.4.3.4 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.
- 4.4.4 The Leader may amend the Executive Arrangements at any time, which changes become effective upon publication of the decision notice unless otherwise stated. The Proper Officer will update the Constitution accordingly and the Leader will report the changes to the next ordinary meeting of the Council. A decision to change the allocation of portfolios or the number of Cabinet Members cannot be called-in.

² Subject to any provisions made under Local Government Act 2000 in relation to the discharge of functions by area committees, another local authority or jointly.

³ Regulation 9 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012

⁴ Part 3 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012

- 4.4.5 All Cabinet Members are required to undertake the mandatory training for executive councillors as identified within the councillor training and development programme.
- 4.4.6 The Cabinet is not subject to political balance requirements and no substitution provisions apply. Neither the Chairman or Vice-Chairman of the Council can be appointed to the Cabinet.

Sub-delegation of executive functions

- 4.4.7 Where the Cabinet or a committee of the Cabinet is responsible for an executive function, it may delegate further to joint arrangements or an officer unless the Leader directs otherwise.
- 4.4.8 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 whole⁵.
- 4.4.9 Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

Cabinet Advisory Panels

- 4.4.10 Cabinet Advisory Panels have the role and functions set out in Article 5 of this constitution. They support Cabinet and its Committees and are bound by these Executive Procedure Rules but make no executive decisions.

Conflicts of Interest

- 4.4.11 All councillors must comply with the **Councillor Code of Conduct** (see further Part 5, section 1 of this constitution).
- 4.4.12 Councillors declaring a Disclosable Pecuniary Interest (recorded on their declaration of interests form and disclosed in the meeting) in a matter to be considered at the meeting must not speak or vote on the matter. They may remain in the room where the meeting is taking place unless they consider that it would be inappropriate in the circumstances to remain in the room while the matter is dealt with.
- 4.4.13 Where a matter arises at a meeting which relates to or affects an Other Registerable Interest the councillor must declare the existence and nature of the interest. They may speak and vote on the matter under consideration.

⁵ That is these Executive Procedure Rules
C:\Users\Ella Newman\AppData\Local\Temp\0e9bf340-72e7-4820-a527-e22250a8b8b3_OneDrive_1_19-04-2024.zip.8b3\Part 4 - 4. Executive Procedure Rules - v1.docx

4.4.14 A Cabinet member exercising delegated powers, either in a Cabinet committee or as an individual member, with a conflict of interest which would require them not to make or participate in the decision to comply with the Code of Conduct, must notify the Leader of the conflict. The Leader will decide who will make the decision, taking into account any advice from the Monitoring Officer.

Cabinet meetings

4.4.15 Cabinet meetings will be convened and held in public in accordance with the **Access to Information Rules** (see further Part 4 section 2 of this Constitution). If the business under consideration is exempt⁶ or confidential⁷, the provisions of the **Access to Information Rules** which relate to Cabinet meeting wholly or partially in private will apply.

4.4.16 If Cabinet is considering a Key Decision, the Key Decision Procedure as set out in the **Access to Information Rules** will apply.

4.4.17 The Leader will, having taken advice from the Statutory Chief Officers:

4.4.17.1 convene as many Cabinet meetings as they consider appropriate;

4.4.17.2 cancel and / or reschedule meetings where necessary;

4.4.17.3 determine the agenda of Cabinet meetings.

4.4.18 Cabinet meetings will usually be held at the main Council offices at 6.30 pm unless the Leader decides otherwise. The time and place of meetings will be confirmed in the summons to the meeting which will be issued in accordance with the **Access to Information Rules** and published on the Council's website.

Quorum

4.4.19 The quorum for a meeting of the Cabinet shall be 3 councillors who are eligible to vote including the Leader or Deputy Leader.

4.4.20 The quorum for a meeting of a committee of the Cabinet shall be agreed when the Committee is established but will be a minimum of 2 Cabinet members.

Chairing

4.4.21 The Leader (if present) will preside at any meeting of the Cabinet or its committees. In the absence of the Leader, the Deputy Leader will preside. If neither the Leader nor Deputy Leader is present, the Leader may

⁶ As defined in the **Access to Information Rules** at paragraphs **4.2.21 – 4.2.25**

⁷ As defined in the **Access to Information Rules** at paragraphs **4.2.26 – 4.2.29**

appoint another person to preside. If no such appointment is made, those present at the meeting shall decide by majority who should preside.

- 4.4.22 The Chair of a Cabinet Committee or Advisory Panel has the same powers as the Leader has in respect of the conduct of those meetings.

Agenda

- 4.4.23 The agenda for each meeting of the Cabinet will comprise:
- 4.4.23.1 apologies for absence
 - 4.4.23.2 approval of the record of decisions and minutes of the last meeting;
 - 4.4.23.3 declarations of interest, if any;
 - 4.4.23.4 matters referred to Cabinet by full Council or an overview and scrutiny committee;
 - 4.4.23.5 any report by a Statutory Chief Officer;
 - 4.4.23.6 matters set out in the agenda for the meeting (which shall indicate which are Key Decisions and which are not).
 - 4.4.23.7 such other items as the Leader decides, which may include:
 - 4.4.23.7.1 public question time;
 - 4.4.23.7.2 Councillor question time
 - 4.4.23.7.3 issues and reports brought forward by the relevant Cabinet Member or Chief Officers;

Business

- 4.4.24 At each meeting of the Cabinet the business set out in the agenda will be conducted.
- 4.4.25 The Leader may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any officer in respect of that matter.
- 4.4.26 Any member of the Cabinet may require the Head of Paid Service to include an item on the agenda of the next available meeting of the Cabinet for consideration.
- 4.4.27 The Statutory Chief Officers, individually or collectively, may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- 4.4.28 The Leader may decide that there are special circumstances that justify an item of business, not included on the agenda, being considered as a

matter of urgency. The reasons for considering the item at the meeting must be stated in the meeting and be recorded in the minutes.

- 4.4.29 In the case of any dispute during the proceedings of any Cabinet body the relevant parts of this Constitution will apply and after considering the application of the relevant provisions, the person presiding at the meeting will rule on the issue in question and their ruling will be final.

Reports

- 4.4.30 Reports for decision by Cabinet or its committees must include sufficient information to allow an effective evidence based decision to be made and shall include any requirements specified by the Statutory Chief Officers, including but not limited to:
- 4.4.30.1 legal and financial implications of the proposed decision;
 - 4.4.30.2 consideration of the public sector equality duty;
 - 4.4.30.3 consideration of the outcome of any public consultation, if required; and
 - 4.4.30.4 whether or not the proposed decision achieves best value.
- 4.4.31 Reports will contain details and outcomes of any consultation undertaken with councillors, external bodies or the public. The scope and level of consultation required will be appropriate to the nature of the matter under consideration, including legal obligations to undertake public and / or stakeholder consultation

Attending and addressing Cabinet

Councillors

- 4.4.32 Subject to the **Access to Information Rules** any councillor may attend any meeting of the Cabinet or its committees.
- 4.4.33 Councillors may, subject to the **Access to Information Rules**, make representations to the Cabinet for a maximum of five minutes on a matter before the meeting takes a decision on it. At the discretion of the meeting, the councillor may speak further and / or take part in any ensuing debate on the matter but cannot vote on it. The councillor must notify, in writing, Democratic Services and the Leader of the Council at least 24 hours prior to the proposed time of the meeting that they wish to address the meeting and identify which item on the agenda they intend to speak on.
- 4.4.34 All councillors may observe a Cabinet or Cabinet Committee meeting, subject to the provisions of the **Access to Information Rules**, but in that

capacity may not speak, unless the person presiding consents and a majority of members present agree. Observing councillors may not vote.

Chair of an Overview and Scrutiny Panel

4.4.35 If Cabinet is considering a report from an Overview and Scrutiny Panel, the Chairman of that Panel has the right to speak to the report at the Cabinet meeting.

Mover of a Motion referred to Cabinet

4.4.36 Where a Motion has been referred to Cabinet for consideration and or deliberation in accordance with paragraph 4.1.60.4 of the Council Procedure Rules, the mover of the Motion may attend the Cabinet when their motion is under consideration and explain it.

Officers

4.4.37 The Statutory Chief Officers and their deputies are entitled to attend and speak at any meeting at which executive functions are discharged.

Other Persons

4.4.38 Subject to the Access to Information Rules, any other person(s) may be invited to attend a meeting of the Cabinet, a Cabinet Committee or a Cabinet Advisory Panel. They may speak or take part in the debate, but not vote, during consideration of relevant items provided their involvement could assist the business of the meeting.

Public

4.4.39 Members of the public are entitled to attend meetings of the Cabinet, its Committees or Panels except when confidential or exempt information is to be considered and the meeting resolves to proceed in private in accordance with the Access to Information Rules. They will only be able to speak at the meeting with the consent of the Leader of the Council.

Taking Executive decisions

4.4.40 Executive Decisions must comply with the Budget and Policy Framework (see further the Budget and Policy Framework at Part 4 Section 3 of this constitution) and Article 10 (Decision-making).

4.4.41 Decisions taken at a meeting of the Cabinet, its committees or panels will be by consensus as evidence of collective responsibility wherever

possible. However, if a vote is required, this will be with a show of hands and by simple majority. The Leader will have a second or casting vote in the event of equality. Any Cabinet Member may require, after the vote is completed, that the Minutes of the meeting record how they voted or abstained.

- 4.4.42 Cabinet may take into account verbal representations made at its meeting when making decisions but must not consider any additional documentation submitted without compliance with the **Access to Information Rules** set out in this Constitution.

Key Decisions

- 4.4.43 Key Decisions will be taken in accordance with the procedure for Key Decisions set out in the **Access to Information Rules**.
- 4.4.44 The Leader shall submit to Council⁸ on **an annual basis a report containing details of each Executive Decision taken during the preceding municipal year** where the making of that decision was agreed as urgent in accordance with paragraphs 4.2.54 to 4.3.56 of the Access to Information Rules (Compliance with Access to Information Rules requirements). This report must include:
- 4.4.45 If it is intended to make an Executive Decision which might be considered to fall outside the Budget or Policy Framework the decision taker shall take advice from the Monitoring Officer and / or the Chief Finance Officer as to whether the decision they want to make would be contrary to the budget and policy framework.
- 4.4.46 Where an Overview and Scrutiny Panel is of the opinion that an Executive Decision is, or if made would be, contrary to the budget and policy framework, then it shall seek advice from the Monitoring Officer and / or Chief Finance Officer.
- 4.4.47 In the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision would not be a departure from the budget and policy framework they shall prepare a report to the relevant Overview and Scrutiny Panel with a copy to the Cabinet.

Referral to Council

- 4.4.48 If a decision has yet to be made, or has been made but not yet implemented, and the Monitoring Officer and / or the Chief Finance Officer are of the view that the proposed decision would be contrary to the budget

⁸ Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

and policy framework, and the decision taker still intends to make or to implement the decision:

- 4.4.48.1 the Monitoring Officer and / or the Chief Finance Officer shall report to the Cabinet, with a copy to the relevant Overview and Scrutiny Panel and to every member of the Council;
 - 4.4.48.2 the Cabinet shall meet to consider the report of the Monitoring Officer and / or the Chief Finance Officer and shall prepare a report to Council; and
 - 4.4.48.3 the decision-taker shall refer the decision to the full Council for decision or ratification as appropriate.
- 4.4.49 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 meet within 28 days of the referral by the decision-taker. At the meeting it will receive the Cabinet's report of the decision or proposals and the advice of the Monitoring Officer and / or the Chief Finance Officer.
- 4.4.50 If Council decides that the decision is not contrary to the budget and policy framework it shall endorse the decision as falling within the existing Budget and Policy Framework.
- 4.4.51 If Council decides that the decision is contrary to the budget and policy framework it may either:
- 4.4.51.1 approve or ratify the decision outside the budget and policy framework;
 - 4.4.51.2 amend the Council's budget and policy framework as necessary to encompass the decision and approve or ratify the decision with immediate effect; or
 - 4.4.51.3 require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer and / or the Chief Finance Officer.

Urgent decisions outside the Budget or Policy Framework⁹

- 4.4.52 Any decision which is contrary to the policy framework¹⁰, or not wholly in accordance with the budget¹¹ approved by full Council, may only be taken by the Council, unless:

⁹ Regulation 5(2) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

¹⁰ Or amendments which may be made to the policy framework in accordance with the provisions for in year changes to policy framework set out in the [Budget and Policy Procedure Rules](#)

¹¹ Or virements made in accordance with the [Budget and Policy Procedure Rules](#)

- 4.4.52.1 the decision is urgent and it is not practical to convene a quorate meeting of the full Council;
 - 4.4.52.2 the decision-taker has briefed the Chairman of a relevant Overview and Scrutiny Panel¹² about why it is not practical to convene a quorate meeting of full Council; and
 - 4.4.52.3 the Overview and Scrutiny Panel Chairman agrees that the decision is urgent.
- 4.4.53 The reasons why it is not practical to convene a quorate meeting of full Council, and the consent of the Chairman of the relevant Overview and Scrutiny Panel to the decision being taken as a matter of urgency, must be noted on the record of the decision, together with the reasons for the Chairman's consent.
- 4.4.54 The decision-taker will provide a full report to the next available Council meeting after the decision is taken explaining:
- 4.4.54.1 the decision;
 - 4.4.54.2 the reasons for it; and
 - 4.4.54.3 why the decision was treated as a matter of urgency.

Records of Executive Decisions taken¹³

At a meeting

- 4.4.55 As soon as reasonably practicable, and in any event within 2 working days, after any meeting of the Executive or within 10 working days of any of its committees, the Council will produce a record of every decision taken at that meeting and publish it on the Council's website together with the report in relation to the decision made. The record will include:
- 4.4.55.1 a record of the decision including the date it was made,
 - 4.4.55.2 the reasons for each decision,
 - 4.4.55.3 details of any alternative options considered and rejected at the meeting; and
 - 4.4.55.4 a record of any interest declared by any Councillor together with a note of any dispensation granted in respect of that interest.

¹² Or in the absence of the chair of the relevant Overview and Scrutiny Panel the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman of the Council.

¹³ Part 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

By a Councillor acting alone

- 4.4.56 As soon as reasonably practicable after an Executive Decision has been taken under the Executive Arrangements¹⁴, the Council will prepare a record of the decision and publish it on the website together with the report in relation to the decision made. The record will include;
- 4.4.56.1 the identity of the decision taker;
 - 4.4.56.2 the decision taken, and the date it was made;
 - 4.4.56.3 the reasons for the decision;
 - 4.4.56.4 details of any alternative options considered and rejected by the decision taker at the time of making the decision; and
 - 4.4.56.5 a record of any interest declared by any Cabinet Member consulted by the decision taker together with a note of any dispensation granted in respect of that interest.

By Officers

- 4.4.57 As soon as reasonably practicable after a Key or Significant Operational Decision¹⁵ has been taken by an officer they will prepare a record of the decision and arrange for its publication on the Council's website. The record will include:
- 4.4.57.1 the identity of the decision maker;
 - 4.4.57.2 the source of the delegated authority to make the decision;
 - 4.4.57.3 a record of the decision including the date it was made;
 - 4.4.57.4 a statement of the reasons for the decision;
 - 4.4.57.5 details of any alternative options considered and rejected by the officer at the time of making the decision; and
 - 4.4.57.6 a record of any interest declared by any Cabinet Member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest

and comply with any further requirements set out in the **Scheme of Delegation** in Part 3 of this Constitution.

- 4.4.58 There is no formal requirement to record Administrative Decisions¹⁶ for the purpose of Council or Public Access, however officers are responsible for

¹⁴ The Leader may take decisions in relation to the Cabinet Member Portfolios and executive delegations to officers as set out in Part 3 of the Constitution.

¹⁵ as defined at **Article 10 in Part 2** of this Constitution

¹⁶ As defined at **Article 10** of this Constitution

retaining a record of administrative decisions, and the reasons for them, which is sufficient for audit and evidential purposes, and for ensuring that all those who need to know are informed promptly of the Administrative Decision.

Implementation of Executive Decisions

4.4.59 Decisions which are subject to the Call-in procedure (set out in the **Overview and Scrutiny Procedure Rules**) should not be implemented until the Call-in procedure is exhausted in relation to those decisions¹⁷.

Decisions Eligible for Call-in

4.4.60 Subject to the exceptions set out below, the following may be called-in to be reviewed and scrutinised by the relevant Overview and Scrutiny Panel¹⁸:

4.4.60.1 all decisions of Cabinet;

4.4.60.2 Executive Decisions taken by the Leader or a Cabinet Member;

4.4.60.3 Executive Decisions taken by Officers.

4.4.61 To ensure that the Call-in provisions do not cause unreasonable delay and are not abused, the power to Call-in decisions does not extend to decisions:

4.4.61.1 which have been the subject of a previous Call-in;

4.4.61.2 made in accordance with the **Budget and Policy Framework Procedure Rules**;

4.4.61.3 made by the Leader in relation to the Executive Arrangements;

4.4.61.4 taken by a Committee or Sub-Committee described in Article 7 of this Constitution;

4.4.61.5 made under regulatory arrangements;

4.4.61.6 made by Joint Committees; or

4.4.61.7 not taken by the authority.

¹⁷ The Call-in procedure will be exhausted when:

- the Call-in period expires if the decision is not called in;
- at the end of the Call-in meeting if the decision is released for implementation; or
- when the decision has been confirmed or amended in accordance with these rules (if the decision was subject to a recommendation that it be reconsidered)

¹⁸ Where a decision falls within the terms of reference of more than one Overview and Scrutiny Panel the Overview and Scrutiny Panel Chairmen shall agree which Panel will handle the decision.

Exemption from Call-in

- 4.4.62 The decision taker may declare a decision as being exempt from Call-in if they consider that the decision is urgent as set out in the Overview and Scrutiny Procedure Rules (paragraphs 4.5.59 to 4.5.63.) Records of decisions taken under this exemption, and therefore exempt from Call-in, will indicate:
- 4.4.62.1 what the implications would be if the decision were to be delayed by the operation of the Call-in mechanism; and
 - 4.4.62.2 why the decision could not have been taken earlier so as to have been eligible for Call-in.
- 4.4.63 There is no appeal against a decision to exempt a decision from Call-in, however the operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review of the arrangements if necessary, in compliance with paragraph 4.2.49 of the [Access to Information Rules](#).
- 4.4.64 The Call-in process is set out in the [Access to Information Rules](#).

Reconsideration of decisions Called-in.

- 4.4.65 If the Overview and Scrutiny Panel recommends that a Called-in decision should be reconsidered, a report will be submitted to the decision maker setting out the basis for the recommendation and any suggestions of the Panel. The decision maker may then either confirm or vary the decision and will produce a revised record of the decision, reflecting the additional deliberations, for publication in accordance with the above recording provisions.

Decisions not subject to Call-in

- 4.4.66 Decisions which are not subject to, or are exempt from, Call-in should be recorded as required by these Executive Procedure Rules and implemented as soon as they are taken.

Decisions which appear to have been wrongly treated¹⁹

- 4.4.67 Where an Executive Decision has been made but was not treated as a Key Decision, and a relevant Overview and Scrutiny Panel thinks that it should have been treated as a Key Decision, that Overview and Scrutiny Panel may require, by resolution passed at a meeting of that Panel, the

¹⁹ Regulation 18 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Decision Taker to submit a report to the Council in accordance with paragraphs 4.5.63 to 4.5.67 of the Overview and Scrutiny Procedure rules.

Access to Information

Public Access to Documents

- 4.4.68 Public rights of access to documents and records of meetings and decisions published in accordance with these rules are set out within the **Access to Information Rules** at Part 4 Section 2 of this constitution.
- 4.4.69 **Paragraphs 4.2.24 – 4.2.30** of the **Access to Information Rules** set out the provisions in relation to public rights of access to exempt or confidential information.

Member Access to Information

- 4.4.70 **Paragraphs 4.2.32 to 4.2.36** of the **Access to Information Rules** apply to information held by the Executive