

ARTICLE 7 - THE CABINET (EXECUTIVE)

7.01 The Executive

- (a) The Executive is responsible for undertaking all of the Council's functions, except for those functions (specified in Article 4 and Part 3 of the Constitution) that are reserved to the Council and that are undertaken by the full Council or delegated by the Council to committees, sub-committees (if any) or officers. When the Executive meet collectively, it is known as 'the Cabinet'. Individual Councillors that are members of the Executive are known as 'Cabinet Members'.
- (b) The Cabinet currently comprises eight Councillors (including the Executive Leader) but can comprise up to a maximum of ten if the Leader so decides.

7.02 Leader

The Leader will be a Councillor elected by the Council to the position of Leader of the Council at the post election annual meeting. The Leader holds office until:

1. he or she resigns from the office;
2. he or she is suspended from being a Councillor (although he or she may resume office at the end of the period of suspension);
3. he or she is no longer a Councillor;
4. he or she is removed from office by resolution of the Full Council; or
5. 6.30pm on the day of the post election annual meeting which follows his or her election as Leader.

7.03 Deputy Leader

The Leader will appoint one of the Cabinet Members to be his or her deputy. The Deputy Leader holds office until:-

1. he or she resigns from office;
2. he or she is suspended from being a Councillor (although he or she may resume office at the end of the period of suspension);
3. he or she is no longer a Councillor;
4. he or she is removed from office by the Leader; or
5. the end of the term of office of the Leader.

7.04 Other Cabinet Members

- (a) The Leader appoints the other Cabinet Members and notifies the Director of Strategy and Local Services of their appointments. Notice of the appointment is made public within two working days, whereupon the appointment becomes effective. Cabinet Members hold office until:
1. they resign from office; or
 2. they are suspended from being Councillors (although they may resume office at the end of the period of suspension); or
 3. they are no longer Councillors; or
 4. the conclusion of the Annual Meeting of the Council following the elections at which they were elected, save that they may be removed

from office at an earlier date, either individually or collectively, by the Leader, who must give written notice to the Director of Strategy and Local Services. The removal will take effect two working days after receipt of the notice by the Director of Strategy and Local Services.

- (b) The Cabinet Members (other than the Leader and Deputy Leader) normally hold office for two years. However, the Leader may, at his or her discretion, extend the period.
- (c) As circumstances require and to cover planned and unplanned absences, the Leader may assign cabinet portfolio responsibilities from one Cabinet Member to another and will notify the Director of Strategy and Local Services accordingly.

7.05 Other Responsibilities of Cabinet Members

In addition to the specific functions referred to in Part 3.A of this Constitution, appropriate Cabinet Members:

- (a) attend scrutiny committee meetings when so required by these committees;
- (b) are required to notify scrutiny committees of their proposed decisions to enable scrutiny committee members to comment if they so wish; and
- (c) are required to meet all reasonable requests for information that are made by scrutiny committee members.

7.06 Lead Members

Other members of the Council may, from time-to-time, be designated by the Leader (and notified as such to the Director of Strategy and Local Services) as a lead member for a particular activity or range of activities. Such a member will not be an executive member and cannot make executive decisions, but will work with the relevant Cabinet Member.

7.07 Proceedings of the Cabinet

- (a) The Cabinet usually meets on a monthly basis, but the Leader keeps this arrangement under review. The Leader chairs the meetings. There are leader's meetings at approximately monthly intervals (i.e. between cabinet meetings). As the latter take place in private, key decisions are not made at these meetings, nor is there substantive discussion of key decisions.
- (b) Councillors who are not members of the Cabinet cannot make any executive decisions, nor can they act as substitute or deputy Cabinet Members. In the absence of Cabinet Members, the Leader and/or Deputy Leader will act on their behalf or determine which Cabinet Member will cover an absent colleague's responsibilities.
- (c) A lead member can attend the public part of any cabinet meeting and speak (but not vote) on issues within the portfolio that are discussed.
- (d) Any member of the Council can attend the public part of a cabinet meeting and may, with the chairman's permission, speak on any item under discussion.

- (e) As soon as reasonably practicable after any Cabinet (or other decision-taking executive body) meeting, the Council will produce a written statement for every executive decision made which includes:
- a record of the decision, including the date it was made;
 - a record of the reasons for the decision;
 - details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
 - a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
 - in respect of any declared conflict of interest, a note of dispensation granted by the Town Clerk .

The written statement referred to above will comprise the minutes of the meeting

7.08 Delegation of Functions

- (a) The functions set out in Part 3.A of this Constitution have been delegated by the Leader to the Cabinet Member and/or executive director or director.
- (b) If for any reason the Leader is unable to act or the office of Leader is vacant the Deputy Leader will act in his or her place.
- (c) The Leader keeps the Executive's scheme of delegation under review and notifies the Director of Strategy and Local Services of any alterations. The latter will ensure that:
 - 1. all Councillors are informed of those alterations;
 - 2. the Constitution is amended accordingly;
 - 3. the alterations are published; and
 - 4. a report is made annually to the full Council on the changes that have been made during the previous twelve months.

7.09 The Budgetary and Strategic Framework

- (a) The Cabinet and/or individual Cabinet Members are responsible for the preparation of the Council's budget and the various plans and strategies that constitute the Council's strategic framework.
- (b) In preparing the budget and the strategic plans, the Executive consults with relevant stakeholders and partner agencies in the local community.
- (c) The Executive is also required to consult with the relevant scrutiny committees at appropriate stages in the formulation of budgetary and strategic plans, and to give proper consideration to the scrutiny committees' responses. In this respect, the Executive needs to give advance notification to the scrutiny side to allow the consideration of draft plans and strategies to be built into the annual scrutiny programme - see Article 6.02 (b) above.
- (d) Having considered the views and recommendations of the relevant scrutiny committees (and also outside stakeholders and agencies), the Executive will then present the budget, plans and/or strategies to the full Council for adoption.

7.10 The Decision-making Process

- (a) To underpin the principles of greater accountability and transparency in decision-making, the Executive sets out its anticipated key decisions in a forward plan.
- (b) **Definition of Key Decisions**

A key decision will be any executive side matter that is not already delegated to officers which:

- (i) involves income or expenditure of £100,000 or more*; and/or
- (ii) is likely to have a significant impact¹ on the community in one or more electoral wards.

**The £100,000 threshold does not apply to decisions to award contracts up to a value of £164,176 which, as stated in Part 4F of the Contract Regulations, are delegated to the relevant director. This EU services threshold applies from 1 January 2014 and is reviewed on 1 January every second year. The Contract Regulations and this note will be updated by the Monitoring Officer to incorporate any change to the EU services threshold.*

Notes:

1. *For example (a) a decision to close a facility, alter services or carry out streetworks **would** be a key decision whereas (b) a matter which has no obvious impact on local people, such as an internal Council policy, **would not**. Where a decision is likely to have a significant impact, but only on a very small number of people, this will not be a key decision if it is under the financial threshold; however, in accordance with good practice, the decision-maker should ensure that those affected are informed in sufficient time for them to have an input into the decision-making process.*
2. *Responses to consultation documents or representations on external issues where the comments to be submitted are consistent with Council policy and/or are part of an on-going dialogue within that established policy will not constitute a key decision. However, where a significant or substantive new response is required, this **will** constitute a key decision.*
3. *In the case of any strategy or plan, the key decision or decisions will be made at the meeting where the strategy or plan is discussed - or through the individual Cabinet Member decision route as appropriate. Subsequent discussion and decisions about the finalising of any text consequent upon such considerations will not be deemed to be a key decision.*
4. *Grants of £20,000 or more to voluntary organisations are deemed in normal circumstances to have a 'significant impact on the community' and will therefore be key decisions.*

5. *In any case of uncertainty, the matter in question shall be treated as a key decision. Furthermore the Leader or any Cabinet Member can give notice that they wish themselves to take any executive-side decision within their portfolio that would otherwise fall within an officer's delegated authority (i.e. recall a specific delegated matter) subject to the usual requirements around advance publicity on the Forward Plan.*
6. *Any matter that does not fall within the above definition is delegated to the relevant officer of the Authority - albeit that any officer can, where he sees fit to do so, consult with the relevant Cabinet Member/Chairman prior to taking any decision falling within his delegated authority.*
7. *Where an executive decision has been made and it was not treated as being a key decision; and the relevant scrutiny committee is of the opinion that the decision should have been treated as a key decision, that scrutiny committee may require the Cabinet or the Cabinet Member responsible for the decision to submit a report to a Council meeting within such reasonable period as the committee may specify.*

(c) The Executive's Forward Plan

The Council will give 28 days notice of any Key Decision. The Council publishes these notices in a document called 'The Forward Plan'.

Each plan will be published on the first working day of each calendar month and covers a four-month period. It is published both in hardcopy form in the Borough's main libraries, electronically on the Council's website and, upon request, transmitted electronically to outside organisations and individuals.

(d) The Forward Plan contains the following information:

- the subject matter of the key decision to be made;
- where the decision-taker is an individual Cabinet Member, that Cabinet Member's name, and title; and, where the decision maker is the Cabinet or another executive decision-making body, its name and a list of its members;
- If a meeting is to be held in private, the reasons therefor;
- the date on which, or the period within which, the decision is to be made;
- a list of the documents submitted to the decision maker for consideration in relation to the key decision to be made;
- the address from which copies of, or extracts from, any document listed is available;
- that other documents relevant to those matters may be submitted to the decision maker; and
- the procedure for requesting details of those documents (if any) as they become available.

(e) Urgency Provisions

Where, on the grounds of urgency, publication of the intention to make a key decision is impracticable, that decision may still be made provided the chairman of the relevant scrutiny committee has been informed, in writing, a copy of the notice given to the chairman of the relevant scrutiny committee (or, in his or her absence, the vice-chairman) has been made available at the Council offices and published on the Council's website and five clear working days have elapsed following the day on which the notice was made available. As soon as reasonably practicable after this has been done the Council will publish a notice at the Council offices and on its website setting out the reasons why compliance with Regulation 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 is impracticable.

(f) Special urgency provisions

Where urgency makes compliance with (e) above impracticable, the decision may still be made provided the decision maker has obtained the agreement of the relevant scrutiny chairman that the making of the decision is urgent and cannot reasonably be deferred and, thereafter, published a notice at the Council offices and on the website setting out the reasons that the decision is urgent and cannot reasonably be deferred.

The Leader reports quarterly to full Council on how often these urgency procedures are used, together with the details in each case.

(g) Officer Advice, Reports and Briefings

Officers are responsible for providing professional advice to the Cabinet and or Cabinet Member who will be taking a decision. This may take the form of a report setting out the issue, policy context, options available, results of consultation, any legal or financial considerations, and professional advice. It may be a briefing giving more detailed background information. All such written material is made available to public inspection, as long as it is not confidential or exempt under Access to Information provisions.

(h) **Decision-making**

Key decisions are made either by the full Cabinet or by individual Cabinet Members.

(i) Decision by Cabinet

Where an executive decision is required, officers check whether it is included in the Forward Plan. Where it is for decision by full Cabinet, the following procedure applies:

1. Governance Services is notified and the item placed on the agenda for the next Cabinet meeting. The agenda is then published giving five clear working days notice of the meeting, and scrutiny committee members are notified.

2. Scrutiny committee members can attend and the Leader may: (i) permit them to speak at the Cabinet meeting; or (ii) refer the matter to the relevant scrutiny committee.
3. The decision is then made (or not made) by the Cabinet.
4. Up until 5 pm on the day following the Cabinet meeting, the decision can be called-in by the relevant scrutiny committee (see Article 6). If the Director of Strategy and Local Services receives no call-in requisition, then the decision will be implemented.
5. Where a decision is called-in, the Director of Strategy and Local Services notifies both the relevant scrutiny committee chairman and the Cabinet which will defer implementing the decision for five days to allow the scrutiny committee to consider the matter. If the scrutiny committee has not considered the matter within this period, the Cabinet can implement the decision. Where the scrutiny committee has considered the matter it can decide whether or not to recommend reconsideration or may, in some circumstances, refer the matter to full Council.
6. Where the scrutiny committee or the full Council recommends reconsideration, the decision will be placed on the agenda for the next Cabinet meeting and the scrutiny committee is invited to make representations at that meeting before the final decision is made.

(j) Private meetings of the Cabinet

At least 28 days clear notice will be given of any meeting or part of a meeting to be held in private, stating the reasons for that meeting or part of that meeting to be held in private.

At least 5 clear working days before a private meeting, the Cabinet must give notice at its offices and on its website of its intention to hold the meeting in private. This notice must state the reasons the meeting is to be held in private and detail any representations received by the Cabinet about why the meeting should be open to the public, together with its response to any such representations.

Where compliance with these requirements is impracticable the meeting may still proceed, provided the relevant Scrutiny Chairman agrees that the meeting is urgent and cannot reasonably be deferred. A notice must be published on the Council's website and made available at the Town Hall setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

(k) Decision by Individual Cabinet Members

Where an executive decision is required, officers check whether it is included in the Forward Plan. Where it is a key decision, the following procedure applies:

1. The report dealing with the matter upon which the decision is needed, and which will be sent to the relevant Cabinet Member, will be published.

2. Governance Services is subsequently notified of the proposed decision on a standard pro-forma, which is then notified to the relevant scrutiny committee.
3. The proposed decision remains for five clear working days during which time scrutiny committee members can comment and the Cabinet Member can refer the matter to the relevant scrutiny committee.
4. A decision is then made by the Cabinet Member and published.
5. As soon as reasonably practicable after an **individual Cabinet Member** has made an executive decision, the Council will produce a written statement of that decision which includes the following:
 - (a) a record of the decision including the date it was made;
 - (b) a record of the reasons for the decision;
 - (c) details of any alternative options considered and rejected by the member when making the decision;
 - (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
 - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Town Clerk or an officer authorised by him.
6. The decision is not implemented for a further five working days, during which time it can be called-in by the relevant scrutiny committee. Decisions not called-in are implemented.
7. Where a decision is called-in, the Director of Strategy and Local Services notifies the relevant scrutiny committee chairman and Cabinet Member, who defers implementing the decision for a further five working days to allow the scrutiny committee to consider the matter. If the scrutiny committee has not considered the matter within this period, the Cabinet Member can implement the decision. Where the scrutiny committee has considered the matter, it can decide whether or not to recommend reconsideration or may, in some circumstances, refer the matter to full Council.
8. Where the scrutiny committee or the full Council recommends reconsideration, the decision is placed on the agenda for the next Cabinet meeting and the scrutiny committee is invited to make representations at that meeting before the final decision is made.