

PART 4 – EXECUTIVE

1. Role

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

2. Form and Composition

- 2.1 The Cabinet will consist of the Cabinet Leader together with at least 2, but not more than 9, Members appointed to the Cabinet by the Cabinet Leader. The membership of Cabinet can be found at Appendix H - Membership of Cabinet, Committees etc.

3. Leader

- 3.1 The Leader will be a Member elected to the position of Leader by the Council. The Leader will hold office until:

he/she resigns from the office; or

he/she is suspended from being a Member under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

he/she is no longer a Member; or

the expiry date of his/her fixed term of office as Leader, which is the date of the post-election annual meeting which follows his/her election as Leader (e.g. for a Leader elected at the Annual Council in May 2011, the period of election will continue to the Annual Meeting in May 2015); or

he/she is removed from office by resolution of the Council.

In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting.

4. Other Cabinet Members

- 4.1 The Leader must appoint one of the Executive as Deputy Leader, who will hold office until the end of the Leader's term of office, unless:

(a) he/she resigns from the office; or

(b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or

(c) he/she is no longer a Councillor; or

(d) he/she is removed from office by the Leader, who must give written notice of any removal to the Chief Executive. The removal will take effect two clear working days after receipt of the notice by the Chief Executive.

Where a vacancy occurs, the Leader must appoint another Deputy Leader.

If for any reason the Leader is unable to act or the office of Leader becomes vacant (and pending the election of a new Leader) the Deputy Leader shall discharge all roles and functions of the Leader.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Executive shall act in the Leader's place or arrange for another Member of the Executive to act in his/her place.

Other Cabinet members shall be appointed by the Leader who shall notify the Council of their appointment and they shall hold office until:

(a) they resign from office; or

(b) they are suspended from being Members under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(c) they are no longer Members; or

(d) they are removed from office on the expiry date of their appointed term of office, save that the Leader may remove the Cabinet Member from office at an earlier date if he/she so decides. The Leader must give written notice of any early removal of a Cabinet Member to the Chief Executive and the removal will take effect two clear working days after receipt of the notice by the Chief Executive.

5. Cabinet Procedure Rules

Who may Make Executive Decisions?

5.1 The Leader will decide how executive functions are to be exercised.

5.2 The Leader may provide for Executive functions to be discharged by:

i) the Executive as a whole;

ii) a Committee of the Executive;

iii) an individual Member of the Executive;

iv) an officer; or

v) joint arrangements.

Delegation by the Leader

- 5.3 At the first Annual Meeting of the Council after a whole Council election, 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 set out below. The document presented by the Leader will contain the following information about Executive Functions in relation to the coming year:
- (a) the names and addresses of the people appointed to the Cabinet by the Leader;
 - (b) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
 - (c) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
 - (d) 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
 - (e) 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.

Further Delegation of Executive Functions

- 5.4 Where the Cabinet, a Committee of the Cabinet (if one is established) or an individual member of the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements or an Officer.
- 5.5 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.
- 5.6 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.
- 5.7 Even where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- 5.8 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.

(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 Chief Executive 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 Chief Executive 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 Chairman.

(d) Where a Cabinet member would normally exercise Executive Functions delegated to him/her in respect of any matter but is unable to do so because of absence or indisposition, a decision on the matter may be taken by the Leader, by the Cabinet or by a Committee of the Cabinet.

(e) Where a Cabinet member would normally exercise Executive Functions delegated to him/her in respect of any matter but has a prejudicial interest in that matter as defined in the Members' Code of Conduct (Appendix Q - Members' Code of Conduct) he/she shall not exercise those delegated powers in respect of that matter. A decision on the matter shall be taken by the Cabinet or a Committee of the Cabinet and the normal rules for declaration of interests at meetings shall apply.

5.9 Conflicts of Interest:

(a) Where the Leader has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct. (Appendix Q - Members' Code of Conduct)

(b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Members' Code of Conduct. (Appendix Q - Members' Code of Conduct)

(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 Member' Code of Conduct. (Appendix Q - Members' Code of Conduct)

5.10 The Cabinet will meet normally at least 12 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.

5.11 (a) Except in those cases where the Cabinet or a Committee of the Cabinet is discussing confidential or exempt information under the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules), every meeting of the Cabinet or Committee of the Cabinet at which

decisions are to be made will be held in public.

(b) Meetings of the Cabinet or Committees of the Cabinet which are not making Cabinet decisions will normally be held in private, except that the Leader may exercise discretion about whether any of these meetings should be held in public.

5.12 The quorum for a meeting of the Cabinet, or a Committee of it, shall be one half of the total number of members of the Cabinet or a Committee including the Leader or person presiding in the Leader's absence.

5.13 (a) Cabinet 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 Procedure Rules (Appendix A - Access to Information Procedure Rules).

(b) Where Cabinet decisions are delegated to a Committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

How are Cabinet Meetings Conducted?

5.14 Who Presides? If the Leader is present he/she will preside. In his/her absence, the Deputy Leader will preside. In the absence of both the Leader and Deputy Leader, then a person appointed to do so by those present shall preside.

5.15 Who May Attend?

(a) Local Members will be invited to appropriate meetings of the Cabinet when issues are being discussed which affect their particular areas and to speak on them.

(b) The Chairman may invite any Member of the Council who is not a member of the Cabinet to speak on any particular matter. The Chairman shall extend such an invitation to a Member who has moved a motion which has been referred to the Cabinet.

(c) There will be a period of 15 minutes set aside for questions from Members.

5.16 What Business? At each meeting of the Cabinet the following business will be conducted:

(a) consideration of the minutes of the last meeting;

(b) declarations of interest, if any;

(c) matters referred to the Cabinet (whether by a Select Committee, the Performance and Governance Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the appropriate Procedure Rules or the Budget and Policy Framework

Procedure Rules (Appendix B - Budget and Policy Framework Procedure Rules) of this Constitution;

(d) consideration of reports from a Select Committee or the Performance and Governance Committee; and

(e) matters set out in the agenda for the meeting, which shall indicate those that are key decisions and those that are not in accordance with the Access to Information Procedure Rules (Appendix A - Access to Information Procedure Rules).

- 5.17 Consultation - All reports to the Cabinet from any member of 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 a Select Committee or the Performance and Governance 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.

Who can put Items on the Cabinet Agenda?

- 5.18 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 Chief Executive will comply with the Leader's requests in this respect.
- 5.19 Any member of the Cabinet may require the Chief Executive 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 Chief Executive will comply.
- 5.20 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Select Committees and the Performance and Governance Committee and Cabinet will send a formal response to the next appropriate meeting of the Select Committee or Performance and Governance Committee explaining how the comments from the Committee was taken into account when making a decision.
- 5.21 Any Member 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 Member who asked for the item to be considered.
- 5.22 The Chief Executive, the Head of Legal and Democratic Services and/or the Corporate Resources Director 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. In other circumstances, where any two of the Chief Executive, the Head of Legal and Democratic Services and/or the Corporate Resources Director 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.

6. How Decisions are Made

- 6.1 The Cabinet is the part of the Council which is responsible for most day-to-day decisions. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated.
- 6.2 All decisions which are to be discussed with Council Officers at a meeting of the Cabinet, will generally be open for the public to attend except where personal or confidential matters are being discussed.
- 6.3 The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework or recommend changes to policy, this must be referred to the Council as a whole to decide.

7. Responsibility for Functions

- 7.1 The Leader will maintain a list setting out which individual members of the Cabinet, Committees of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular Executive Functions.

8. Support Groups to Cabinet

- 8.1 The Cabinet may form advisory groups from time to time to assist with its work, especially with the review of, or additions to, a policy within the Policy Framework. These advisory groups will be constituted on the basis of political proportionality and may include members of the relevant Select Committee or Performance and Governance Committee to which they may also report direct. The membership and terms of reference of these advisory groups are set out in Appendix R - Cabinet Advisory Groups.

