

## SECTION 5 – THE CABINET

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### **Introduction**

5.1 The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

### **Form and Composition of the Cabinet**

5.2 The Cabinet will consist of:

5.2.1 the Leader of the Council (the "Leader"); and

5.2.2 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

### **Election**

5.3 The Leader will be a Councillor elected to the position of Leader by the Council.

### **Term of Office**

5.4 The Leader is appointed for a period of 4 years or for such other period as is prescribed from time to time in legislation or until s/he leaves office pursuant to Rules 6.4 to 6.7.

### **Role of the Leader**

5.5 The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

### **Other Cabinet Members**

5.6 Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

5.6.1 s/he resigns from that office; or

5.6.2 s/he is removed either individually or collectively from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two Clear Days after receipt of the notice by the Monitoring Officer; or

5.6.3 s/he ceases to be a Councillor; or

5.6.4 s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension).

5.7 The Leader may at any time appoint a Cabinet Member to fill any vacancies.

5.8 The Cabinet shall not include the Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, a member of a Scrutiny Committee, the Chair of any other Committee or Sub-Committee of the authority (save for the Pensions and Investments Committee and Chair of Area (Shire) Committees).

## **SECTION 5 – THE CABINET**

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### **Delegation of Functions**

5.9 The Leader may exercise Executive Functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

- 5.9.1 the Cabinet as a whole;
- 5.9.2 a committee of the Cabinet (comprising Cabinet Members only);
- 5.9.3 an individual Cabinet Member;
- 5.9.4 a joint committee;
- 5.9.5 another local authority or the executive of another local authority;
- 5.9.6 a delegated Officer.
- 5.9.7 an Area (Shire) Committee.

### **Responsibility for Functions When There is No Cabinet**

5.10 During any period when there is no Cabinet, any functions which are the responsibility of the Cabinet shall be allocated to and discharged by the Head of Paid Service or in his/her absence the Strategic Directors acting singularly or collectively **PROVIDED THAT** in discharging such functions the Head of the Paid Service or the Strategic Directors shall have regard to and comply with any protocol applying to the exercise of delegated powers in so far as that is reasonably practicable, and in consultation with all the Leaders of political groups in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

### **Rules of Procedure and Debate**

5.11 The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Rules 5.12 to 5.29 below.

### **Cabinet Procedure Rules**

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

5.12 The Monitoring Officer, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section 13 to this Constitution. This will contain the following information about Executive Functions:

- 5.12.1 the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- 5.12.2 the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 5.12.3 the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- 5.12.4 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

#### ***Sub-Delegation of Executive Functions***

5.13.1 Where the Cabinet is responsible for an Executive Function, they may

## SECTION 5 – THE CABINET

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delegate further to joint arrangements, or an Area (Shire) Committee or an Officer.

5.13.2 Where 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 (Shire) Committee or an Officer.

5.13.3 Unless otherwise stated in the delegation, where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

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

5.14.1 The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and wherever practicable 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 or committee. The Monitoring Officer will present a report for information purposes to the next ordinary meeting of the Council setting out the changes made by the Leader. Where the Leader withdraws any delegation from any person, body or committee the delegated powers revert back to the Leader with immediate effect from the time of receipt of the notice by the Monitoring Officer.

5.14.2 Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when it is served on its chair.

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

5.15.1 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 Section 18 of this Constitution.

5.15.2 If any 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 Section 18 of this Constitution.

5.15.3 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 Section 18 of this Constitution.

### ***Cabinet Meetings***

5.16.1 The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

5.16.2 Those listed below may ask the Monitoring Officer to call Cabinet meetings in addition to those agreed by the Leader:

5.16.2.1 the Head of Paid Service;

5.16.2.2 the Section 151 Officer

## SECTION 5 – THE CABINET

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- 5.16.2.3 the Monitoring Officer
- 5.16.2.4 any three members of the Cabinet.

5.16.3 Any request presented in accordance with Rule 5.16.2 above must be in writing and must specify the business to be transacted at the meeting.

### ***Public or Private Meetings of the Cabinet?***

5.17 The Cabinet will hold its meetings in public, except in the circumstances set out in the Access to Information Procedure Rules in Section 14, for example where confidential or exempt information is being discussed.

### ***Quorum***

5.18 The quorum for a meeting of the Cabinet, or a committee of the Cabinet, shall be 3 members of the Cabinet. During any meeting if the person presiding counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the person presiding. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting of the Cabinet.

### ***How are Decisions to be Taken by the Cabinet***

5.19.1 All decisions taken by the following need to follow the Access to Information Procedure Rules set out in Section 14:

- 5.19.1.1 Cabinet;
- 5.19.1.2 Cabinet Committee;
- 5.19.1.3 Individual Members of the Cabinet

5.19.2 All decisions taken by the Executive, a Committee of the Executive, or an Individual Member of the Executive shall comply with the Budget and Framework Procedure Rules (so far as appropriate) as set out in Section 15.

5.19.3 All decisions taken by the Executive and / or a Committee of the Executive will be taken by a majority vote of those present at the meeting with the person Chairing the meeting having a second or casting vote.

### **How are Cabinet Meetings Conducted?**

#### **Who Chairs?**

5.20 The Leader will chair at any meeting of the Cabinet or its committees at which s/he is present. In his absence, a Deputy Leader will chair. In his/her absence, then a person appointed by the meeting to do so by those present shall chair the meeting.

## SECTION 5 – THE CABINET

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### Who May Attend?

5.21.1 These details are set out in the Access to Information Procedure Rules in Section 14 of this Constitution. See also Rule 3.218.2 in relation to Member participation in meetings.

5.21.2 Subject to Rule 5.25.3 below a Member may attend any meeting of the Cabinet or Cabinet Committee (whether or not they are a member of the Cabinet or a Cabinet committee)

5.21.3 The right to attend will not apply in the following cases:

5.21.3.1 where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

5.21.3.2 where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;

5.21.3.3 where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.

### What Business?

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

5.22.1 elect a person to chair if the Leader or a Deputy Leader is not present;

5.22.2 receive apologies for absence

5.22.3 approval of the minutes of the last meeting;

5.22.4 declarations of interest, if any;

5.22.5 matters referred to the Cabinet by a Scrutiny Committee 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 Sections 7 and 15 of this Constitution;

5.22.6 consideration of reports from a Scrutiny Committee or other committees;

5.22.7 consideration of reports from Cabinet Committees;

5.22.8 reports from Cabinet Members

5.22.9 reports from Officers of the Authority.

5.22.10 make recommendations to the Council or a scrutiny or other committee

5.22.11 consider such other business specified in the summons to the meeting;

5.22.12 consider other business, not specified in the summons as the Leader considers urgent, subject to the nature of the urgency being specified in the minutes

5.22.13 exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules

5.22.14 consider the Cabinet Forward Work Programme and to ensure that the programme has been populated for at least 8 months and is regularly updated.

### Consultation

## SECTION 5 – THE CABINET

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- 5.23 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 undertaken 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?

- 5.24.1 The Leader will decide upon the schedule for meetings of the Cabinet. S/he 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 Member or Officer in respect of that matter.
- 5.24.2 Any Member of the Cabinet may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 5.24.3 The Head of Paid Service, 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 that such a meeting be convened.
- 5.24.4 The Leader will make sure that an item is placed on the agenda of the next available meeting of the Cabinet and / or Cabinet Committee where a Scrutiny Committee or the Full Council have resolved that an item be considered by the Cabinet and / or Cabinet Committee.
- 5.24.5 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet and / or Cabinet Committee meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet and / or Cabinet Committee. 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, and, at the discretion of the Leader or person presiding, be permitted to speak.

### Speaking at Meetings

- 5.25.1 Subject to Rules 5.25.3 and 5.26 below only Cabinet Members, employees or persons asked to or with a duty to advise Cabinet or other persons asked by the Cabinet to do so may speak at an Cabinet meeting
- 5.25.2 ~~Subject to rule 5.25.3 below a Member may attend any meeting of the Cabinet or a Cabinet Committee (whether or not they are a member of the Cabinet or of the Cabinet Committee) and w~~With the permission of the person chairing, a Member may speak at a Cabinet meeting on matters affecting his / her ward. Members wishing to speak should wherever possible notify the Chair in advance of the meeting. Members speaking under this Rule will be allowed a maximum of 5 minutes, subject to the discretion of the person chairing the meeting to extend the time.
- 5.25.3 The right to speak pursuant to rule 5.25.2 will not apply ~~in the following cases:~~
- ~~5.25.3.1~~—where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

## SECTION 5 – THE CABINET

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- ~~5.25.3.2 — where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;~~
- ~~5.25.3.3 — where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.~~

**PROVIDED THAT** nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings.

### **Rights of ~~Leaders of Political Groups~~, Chairs of Scrutiny Committees to Speak at Meetings.**

5.26 ~~A Councillor being the leader of a political group in accordance with the Local Government (Committees and Political Groups) Regulations 1990, shall have the right (such right to be exercised reasonably and not so as to interfere with the proper conduct of business) to speak once on any item at any meeting of the Cabinet or a Committee of the Cabinet even though s/he is not a member of the Cabinet or Cabinet Committee as the case may be. In the absence of the leader of such political group the Councillor designated as the leader's deputy may exercise this right. The above also applies to the Chairs (or in their absence Vice-Chairs) of the Scrutiny Committees may speak for no longer than 5 minutes at a meeting of the Cabinet only to present a scrutiny report to the Cabinet for consideration, and to respond to questions from Cabinet Members on the scrutiny report.~~

This right may not be exercised ~~in the following cases:~~

~~5.26.1 where the Councillor-Scrutiny Chair / Vice-Chair is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;~~

~~5.26.2 — where the Cabinet or any Committee of the Cabinet exercising a quasi-judicial function have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;~~

~~5.26.3 — where the Monitoring Officer or his/her representative advises that as a matter of law or to protect the Council's interest non-members of the Cabinet or the Committee of the Cabinet (as the case may be) should withdraw;~~

~~5.26.4 — in relation to Scrutiny Committees any matter outside the remit of that committee.~~

**PROVIDED THAT** nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings

### **Disturbance by the Public, Filming, Audio Recording and Use of Social Media**

## SECTION 5 – THE CABINET

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- 5.27.1 The provisions in Council Procedure Rules in Rules 4.89 to 4.90 in relation to disturbance by the public apply to meetings of the Cabinet.
- 5.27.2 The provisions in Council Procedure Rules in Rule 4.91 relating to filming, audio recording and use of social media apply to meetings of the Cabinet.

### **Format of Reports for Cabinet Decisions**

- 5.28 Reports prepared by Cabinet Members and / or officers on which it is intended that Cabinet decisions are taken whether by the Leader, the Cabinet, a Cabinet Committee, Individual Cabinet Members or an officer shall comply with a report template protocol provided by the Monitoring Officer.

### **Call-In of Decisions**

- 5.29 A decision of the Cabinet, a Committee of the Cabinet, or an Individual Member of the Cabinet is subject to the Call-In provisions set out in the scrutiny procedure rules in Section 7 of this Constitution.