

## Council Constitution, Part 4.4 - Rules of Procedure (Cabinet Procedure Rules)

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## 1 Notice

The Proper Officer or, in her/his absence the Head of Democratic Services, shall summon all meetings of the Cabinet. A notice period of 5 clear working days shall be given to Council meetings and to Cabinet Meetings. However in exceptional circumstances the 5 clear working day notice period may be waived providing written agreement (via e-mail) is received from the Leader of the Council, Monitoring Officer and / or Head of Democratic Services or their respective Deputies in advance.

### **Note:**

*This provision does not allow the Authority to waive its legislative duty to meet the 3 clear working day requirement'. A notice period of 3 Clear working days will apply to all other Committee meetings.*



## 2 Cabinet Functions

Cabinet functions as set out in The Terms of Reference - '[Portfolios](#)' in [Part 3](#) of this Constitution will be discharged by:

- a) The Cabinet as a whole;
- b) A Committee of the Cabinet;
- c) An Officer;
- d) An Area Committee;
- e) Joint Arrangements.



### **3 Delegation By The Leader**

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 at [Part 3](#) to this Constitution. The document presented by the Leader will contain the following information about Cabinet functions in relation to the coming year:

- a) The names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- b) The Terms of Reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- c) The nature and extent of any delegation of Cabinet 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
- d) 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 Sub-Delegation of Cabinet Functions**

- 1 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 an Area Committee, joint arrangements or an Officer.
- 2 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.
- 3 Unless the Leader directs otherwise, an individual Cabinet member or a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- 4 Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.



### **5 The Council's Scheme of Delegation and Cabinet Functions**

- 1 Subject to 1.4.2 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 Article 7 and set out in [Part 3](#) of this Constitution.
- 2 The Leader may amend the scheme of delegation relating to Cabinet 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 Proper Officer will present a report to the next

ordinary meeting of the Council setting out the changes made by the Leader.

- 3 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 Chair.



## **6 Job Sharing by Leaders and Cabinet Members**

- 1 Any election or appointment to the Cabinet (including the Leader) may include the election of two or more Councillors to share office.
- 2 Where two or more Members have been elected or appointed to share the same office of the Cabinet the maximum number of members of the Cabinet including the Leader will be:
  - a) 12, where at least two of the Members have been elected or appointed to share office; or
  - b) 13, where at least three of the Members have been elected or appointed to share office.
- 3 The Members of the Cabinet who share the same office will have one vote between them in respect of any matter on which they have a right to vote because they are a member of the Cabinet. When casting the vote at the meeting, the Cabinet Job Sharing Councillors will agree which of them is to cast their vote at the meeting. If they cannot agree on the vote then they must make the chair of the meeting aware that they have not agreed a position and their vote will not be counted.



## **7 Role of Assistants to the Cabinet**

- 1 Other Councillors may, from time to time, be designated by the Leader as Assistant to the Cabinet. No more than 5 Assistants to Cabinet will be appointed at any given time. Such Councillors will not be:
  - a) a Member of the Cabinet
  - b) The Presiding Member and Deputy Presiding Member of the Council
- 2 Assistants to the Cabinet will not participate in Executive decision making, but may work closely with a Cabinet Member. He/she will not be a Member of the Scrutiny Committee.
- 3 An Assistant to the Cabinet may support the Cabinet Member through the delegation of tasks as agreed for his/her area of responsibility. An Assistant to the Cabinet will not, however, have delegated powers and will not be entitled to vote at Cabinet Meetings or Cabinet Committee Meetings nor deputise for the Cabinet Member when the Cabinet Member is called to appear at a Scrutiny Committee.
- 4 Assistants to the Cabinet are entitled to attend and speak at any meeting of the Cabinet or a Committee of the Cabinet but cannot vote or count towards the quorum. Assistants to the Cabinet cannot move or second any

report/recommendation to the Cabinet



## **8 Conflicts of Interest**

- 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 [Part 5](#) of this Constitution.
- 2 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 members in [Part 5](#) of this Constitution.
- 3 If the exercise of a Cabinet 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 [Part 5](#) of this Constitution.



## **9 Timetable of Cabinet Meetings**

The Cabinet will meet at times to be agreed by the Council. The Cabinet meetings shall include provision for attendance remotely and in accordance with the Council's Multi-Location Meetings Policy.



## **10 Public Access to Meetings of the Executive**

The Access to Information Rules in [Part 4](#) of this Constitution set out the legal requirements covering public and private meetings.



## **11 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the total number of members of the Cabinet.

Where any meeting is attended by more than one of the Members who share the same office and those members are attending in their capacity as a member of the Cabinet, they together count only as one person for the purpose of determining whether the meeting is quorate.



## **12 Decision-Making**

- 1 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 Rules

in [Part 4](#) of the Constitution.

- 2 Where Cabinet 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 whole.
- 3 No decision of Cabinet will be implemented until the 3 clear working days allowed for the Call IN Procedure has passed.



## 13 Conduct of Cabinet Meetings

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



## 14 Attendance

Details of entitlement to attend Cabinet Meetings are set out in the Access to Information Rules in [Part 4](#) of this Constitution.



## 15 Order of Business

Except as otherwise provided by the Cabinet Procedure Rules, the order of business at any Cabinet meeting shall be:

- a) To receive any apologies for absence;
- b) To receive disclosures of interest under [Council Procedure Rule 8](#);
- c) To confirm and sign the Minutes of the last meeting of the Cabinet;
- d) Announcements / Communications from the Leader of the Council;
- e) Public Question Time;
- f) Councillors Question Time;
- g) Matters referred to the Cabinet, whether by the Challenge Panel, by Overview & Scrutiny Board or by the Council, for reconsideration by the Cabinet in accordance with the provisions contained in the [Scrutiny Procedure Rules](#) or the [Budget and Policy Framework Procedure Rules](#) set out in Part 4 of this Constitution;
- h) Consideration of reports from Overview & Scrutiny Boards;
- i) Matters set out in the agenda for the meeting.



## 16 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 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.



## **17 Compilation of Agendas**

- 1 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 Proper Officer will comply with the Leader's requests in this respect.
- 2 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.
- 3 The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview & Scrutiny Board or the Council Meeting have resolved that an item be considered by the Cabinet.
- 4 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 the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Chief Executive, Chief Financial Officer and 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 such 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.



## **18 Councillor Question Time**

- 1 Councillors shall be allowed to ask questions of the Leader of the Council relating to any item on the Cabinet agenda being considered at the meeting. A period of 15 minutes is allocated for this purpose.
- 2 Should a Councillor wish to ask a question relating to a 'Not for Publication' report, then s/he must inform the Chair of the meeting of their intention to ask.
- 3 The Chair of the meeting will then allocate an element of the 15 minutes for such questions. Actual questions relating to 'Not for Publication' reports shall be asked after the Cabinet has formally moved into private session.



## **19 Call In Procedure**

- 1 **Executive Decisions**

- a) Where a decision is made by Cabinet, the minutes of the decision shall be published electronically and made available at the Guildhall within 2 clear working days of the decision being made by the Head of Democratic Services.
- b) The Chair and Vice Chair of the Scrutiny Programme Committee shall also be sent electronic copies of the minutes of all such decisions.
- c) The minutes shall:
  - i) Bear the date on which they are published; and
  - ii) Specify that the decision will come into force and may then be implemented on the expiry of 3 clear working days (the Call In period) after the publication of the decision, unless called in pursuant to these Procedure Rules.

## 2 **How to Call In an Executive Decision?**

The Chair and / or Vice Chair of the Scrutiny Programme Committee or any 4 Councillors may Call In a decision by giving notice and stating the reason(s) for a Call In, in writing (preferably via e-mail) to the Head of Democratic Services within the Call In period. The Head of Democratic Services will then notify the decision taker of the Call In via e-mail.

## 3 **Validity of Call In**

The Head of Democratic Services upon consultation with the Monitoring Officer and Presiding Member may rule that a Call In is not valid if:

- a) It is not made by 23.59 on the 3rd clear working day of the publication of the decision;
- b) The decision is exempt from Call In on account of urgency provisions as set out below and also where:
  - i) The decision being called in is the same, or broadly the same, as a previous Call In within the last six months;
  - ii) The decision has been subject to pre-decision scrutiny and there is no material change in relevant information/evidence;
  - iii) The Call In does not specify precisely which aspects of the decision is to be challenged or provides too little information.

## 4 **Role of the Scrutiny Programme Committee**

- a) The Head of Democratic Services shall call a meeting of the Scrutiny Programme Committee on such date as s/he may determine, where possible after consultation with the Chair of the Scrutiny Programme Committee, and in any case within 7 clear working days of the decision to Call In.

**Note:** For the purpose of this paragraph, the last working day before Christmas and the working days between Christmas and the New Year shall not be counted as working days.

- b) At its meeting, the Scrutiny Programme Committee will consider the

called in decision.

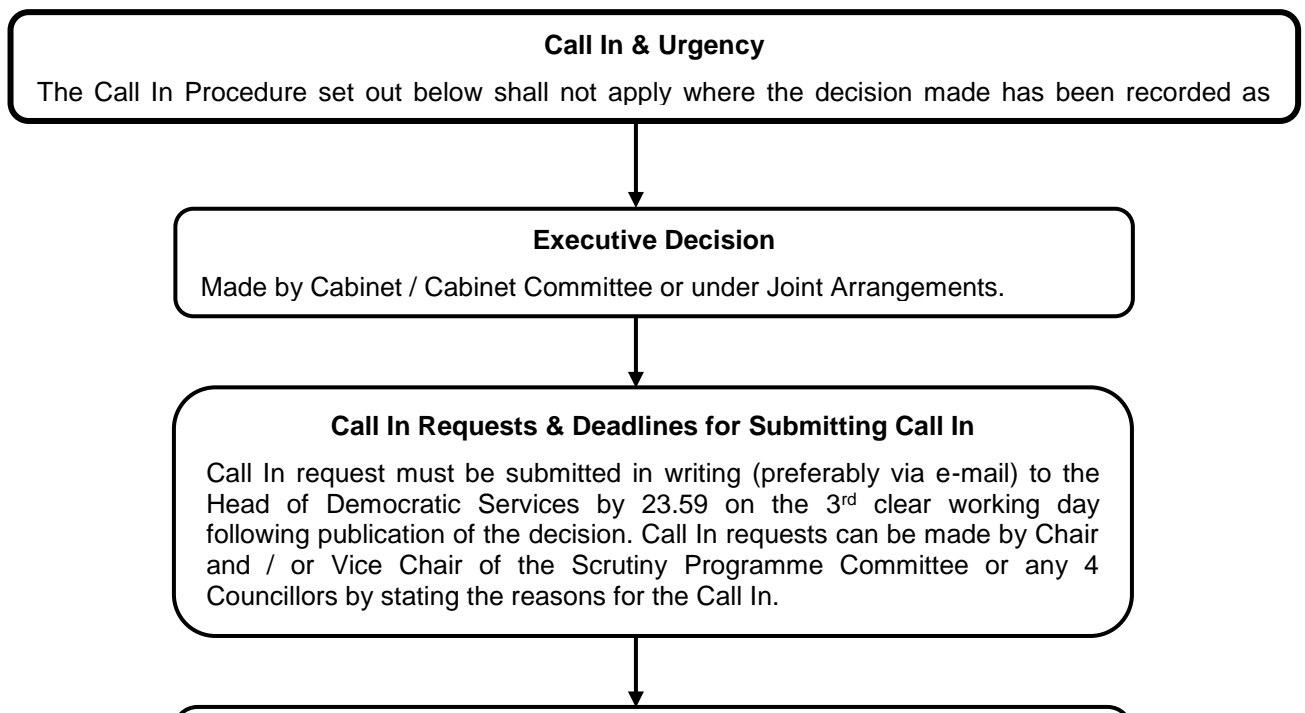
- c) The Scrutiny Programme Committee shall consider the reasons for the Call In and the decision and:
  - i) If satisfied with the explanation it will so indicate to enable the decision to be implemented;
  - ii) If 'no longer concerned', but not minded to indicate that it is 'satisfied with the explanation', it is in order for the Committee to resolve that 'the explanation be accepted but not endorsed by the Committee';
  - iii) If still concerned about the decision, then it may refer it back to Cabinet or the relevant decision maker / body for reconsideration, setting out in writing the nature of its concerns. The Cabinet, decision maker / body shall then reconsider its decision before making a final decision.

## 5 Call In and Urgency

- a) The Call In procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if either the Chief Executive, the Section 151 Officer or the Monitoring Officer certifies that any delay likely to be caused by the Call In procedure could seriously prejudice the Council or the public interest including failure to comply with statutory requirements;
- b) The record of the decision, and notice by which it is made public, shall state whether the decision is an urgent one, and therefore not subject to Call In.
- c) 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 if necessary.



## 20 Call In Procedure Flowchart





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