

EXECUTIVE PROCEDURE RULES

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EXECUTIVE PROCEDURE RULES

1. How Does the Executive Operate?

1.1 Who may make Executive Decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or 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;
- (iv) an area committee;
- (vi) joint arrangements; or
- (vi) another local authority.

1.2 Delegation by the Leader

At the Annual Meeting of the Council, the Leader will present to the Council a written record of additional 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 executive functions in relation to the coming year:

- (i) the extent of any authority delegated to executive members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such executive committees as the leader appoints and the names of executive members appointed to them;
- (iii) 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 executive members appointed to any joint committee for the coming year; and
- (iv) 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.

1.3 Sub-Delegation of Executive Functions

- (a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.

- (b) Unless the Council directs otherwise, if the leader delegates functions to the executive, then the executive may delegate further to a committee of the executive or to an officer.
- (c) Unless the leader directs otherwise, a committee of the executive to whom functions have been delegated by the leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 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. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) Delegation of executive functions is the responsibility of the Leader of the Council who shall report to the Annual Council meeting on delegation agreed. He/she 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 proper 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 executive as a whole. The Leader of the Council will present a report to the next ordinary meeting of the Council setting out the changes made.
- (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 chair.

1.5 Conflicts of Interest

- (a) 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.
- (b) If every member of the executive 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.
- (c) If the exercise of an executive function has been delegated to a committee of the executive, 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.

1.6 Executive Meetings - When and Where?

The Executive will meet at times to be agreed by the Leader. The executive shall meet at the Civic Offices, High Street, Epping, Essex CM16 4BZ or another location to be agreed by the Leader. Meetings will commence at 7.00 p.m.

1.7 Public or Private Meetings of the Executive?

All meetings of the Cabinet and Cabinet Committees shall be open to the public, press and all members of the Council, subject to the need to consider any exempt or confidential business in private session. Exempt or confidential business will be dealt with at the

conclusion of the public session, subject to the requirements of 1.6 above.

1.8 Quorum

The quorum for a meeting of the Cabinet, shall be 5 members of the executive. The quorum for a Cabinet Committee shall be three members. Appendix 1 to these rules sets out procedures for safeguarding the Cabinet quorum in exceptional circumstances.

1.9 How are Decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.
- (c) Where Executive decisions are delegated to individual members of the Executive, these decisions shall, in the unavoidable absence of that person, be exercised by the Executive itself.

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who Presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the event that both the Leader and Deputy Leader are absent, the Executive will appoint a person from among those present to preside at that meeting.

The member of the Executive appointed, as Chairman of any Executive Committee will preside at that meeting of that Committee at which he/she is present. If the appointed Chairman is absent, another member from those present shall preside for all or part of the meeting in question.

2.2 What Business?

At each meeting of the executive the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (v) consideration of reports from overview and scrutiny committees;
- (vi) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution;

- (vii) budget reports; and
- (viii) reports from Executive Committees and individual members of the Executive.
- (ix) questions from members of the public in accordance with the Council's scheme provided that these are received at least 4 working days before the Cabinet meeting.

2.3 Consultation

All reports to the executive from any member of the executive 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 relevant overview and scrutiny committees, 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.

2.4 Who can put Items on the Executive Agenda?

- (a) The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, 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.
- (b) Any member of the Executive may require the Proper Officer to place an item on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.
- (c) There will be a standing item on the agenda for each meeting of the Cabinet for matters referred by the Overview and Scrutiny Committee and at each ordinary meeting of the Cabinet for public questions.
- (d) Any member of the Council may ask the Leader to put an item on the agenda of an executive meeting for consideration, and if the leader agrees the item will be considered at the next available meeting of the Executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual may be invited to attend the meeting, if, in the opinion of the Leader this would assist the Executive's consideration of that item. In the event that the Leader is unable to agree the request, the relevant member of the Council shall receive an explanation of that refusal.
- (e) The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive 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 Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the Executive 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.

3. REPORTS OF CABINET MEMBERS

The following rules will apply to the reports submitted to any member of the Executive or the Cabinet, a Cabinet Committee or any other Executive body, namely:

- (a) all reports for Cabinet members will normally be drafted by officers but if drafted by a Cabinet member, they must be submitted at least 5 weeks in advance of the Cabinet meeting in order to allow the advice of officers to be included;
- (b) Cabinet members, once in possession of an officer's report, shall be able to amend reports in relation to minor wording changes or format provided that the factual, legal and financial basis is not compromised;
- (c) where Cabinet members wish to add or change recommendations or add options contained they must ensure that reasons are stated in the report;
- (d) at all times, reports requiring decisions in compliance with statute law or the Council's policy and budget framework, shall not be deferred by Portfolio Holders without the reason being recorded in writing;
- (e) it shall not be open to a Portfolio Holder to change a report submitted by a Chief Officer by omitting relevant facts or by altering the facts as expressed such that the report becomes unclear;
- (f) it shall be open to the Portfolio Holder and the Chief Officer to consult the Monitoring Officer and/or Chief Financial Officer under Article 12.03 or 12.04 of the Constitution on any points under (d) and (e) above on which there is no agreement; and
- (g) in the event that a Chief Officer and Cabinet member fail to agree on the submission of a report, it shall be referred to Monitoring Officer for a ruling on whether the report should proceed.

4. ANNUAL REPORTS AND WORK PROGRAMMES

- (a) The Executive shall submit to the Council at its annual meeting a work programme for the following Council year.
- (b) The Executive shall submit to the Council in April each year a report on its activities in the last Council year.

5. PORTFOLIO HOLDER ASSISTANTS

- 5.1 The Leader of the Council may appoint up to 10 Portfolio Holder Assistants who shall –
- (a) assist the designated Cabinet Member in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
 - (b) assist the designated Cabinet Member in monitoring performance in specified areas relating to the allocated portfolio.
 - (c) where appropriate and where permissible under the Council's Constitution, represent the designated Cabinet Member at meetings or visits.

- 5.2 Such appointments shall be at the discretion of the Leader and shall be notified to Council at its Annual Meeting. The term of office of any Portfolio Holder Assistants shall be for one year from the Annual Council meeting concerned but may be varied by the Leader at any time.
- 5.3 Portfolio Holder Assistants shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers, which shall be reserved to Cabinet members either collectively or individually.
- 5.4 Portfolio Holder Assistants may, however, be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Cabinet members but may not vote.

6. REQUESTS BY THE PUBLIC/OUTSIDE ORGANISATIONS TO ADDRESS THE CABINET

- 6.1 Any member of the public or a representative of an outside organisation may address the Cabinet on any agenda item (except those dealt with in private session as exempt or confidential business) due to be considered at a meeting.
- 6.2 The following rules shall apply to such requests:
- (i) requests must relate to any existing agenda item;
 - (ii) requests must not raise new business for the meeting concerned;
 - (iii) all requests must be notified to the Council by 4 pm on the day of the meeting;
 - (iv) requests accompanied by proposals to circulate written material must be received three working days before the meeting in time to be sent to Cabinet members in advance of the meeting;
 - (v) requests need not be in writing;
 - (vi) a maximum of two persons shall be permitted to address the Cabinet on any one agenda item;
 - (vii) a time limit of 3 minutes per speaker shall apply;
 - (viii) the Cabinet shall be able to ask questions on any comments made;
 - (ix) the Leader of the Council shall have discretion as to whether to limit the number of persons wishing to address the Cabinet if it is considered that the number of such speakers will unduly delay the proper despatch of business at any meeting.
 - (x) this procedure shall not apply to Cabinet Committees.

7. ACTION IN DESIGNATED EMERGENCIES

- 7.1 The procedure governing action required to be taken in emergency situations is set out in Appendix 2 to these rules.

EXECUTIVE PROCEDURE RULES – APPENDIX TO RULE 1.8 (QUORUM)

1. In the event that, for any reason, the Proper Officer perceives that there will not be quorum as a result of Cabinet membership being depleted for any of the reasons set out below:

- (a) leave of absence approved by the Council under Section 85 of the Local Government Act 1972;
- (b) suspension or partial suspension as a result of an adjudication by the Standards Board for England or the Epping Forest District Standards Committee;
- (c) resignation as a Councillor or as a Cabinet member;
- (d) ceasing to be a Councillor as a result of an election, by retiring from office or becoming otherwise disqualified; and
- (e) by death in office

the Leader of the Council (or the Deputy Leader if absent) will be informed as soon as possible after this becomes apparent.

2. The Proper Officer shall also place an item on the agenda for the next available Cabinet meeting to:

- (a) report on the vacancies which have occurred or are likely to occur;
- (b) seek decisions from the Cabinet on arrangements for covering the vacant portfolios to be recommended to the Council on:
 - (i) any portfolios which will be covered by other Cabinet members either on a temporary basis or for the remainder of the Council year concerned; or
 - (ii) the need to appoint new portfolio holders to those vacancies, the actual appointment being reserved to the Council.

3. The Cabinet shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until such time that the Council can make formal appointments.

4. The Leader of the Council (or Deputy Leader if absent) shall have delegated authority to make temporary appointments under 2(b)(i) and (ii) above until the next available Cabinet meeting considers the matter, if it is considered, after consulting the proper officer, that there is an urgent need to secure a quorum.

5. Exercise of Delegation by the Cabinet or the Leader of the Council

- 5.1 In the exercise of delegated authority under 3 and 4 above, the Cabinet or the Leader of the Council will:

- (a) if Cabinet seats are held by a single political group, allocate portfolios only to councillors from that group;
- (b) if Cabinet seats are allocated to an alliance of two or more parties forming a Council Administration, allocate vacant seats only to councillors from those groups and the Leader of the Council shall be required to consult the Leaders of those other groups in advance on the appointments being made;
- (c) if Cabinet seats are allocated between all political groups entitled to places under pro rata rules, fill vacancies on the nomination of the political group which held the vacant seat(s), unless all political groups agree on an alternative arrangement which achieves pro rata requirements.