

ARTICLE 7 - THE EXECUTIVE

Role and Responsibilities

1. The Executive (Cabinet) will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution and the local choice functions set out in Part 3 of this constitution.
2. Where the Leader or the Cabinet is responsible for an executive function, that function may be delegated pursuant to sections 9E to 9EB of the Local Government Act 2000 as set out in Part 3 of this constitution which sets out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.
3. Any function which is the responsibility of the Cabinet may not be discharged by the Council.
4. The Cabinet is responsible for determining the content of any plans and strategies not requiring the assent of the full Council set out in Article 4.
5. The Cabinet is responsible for proposing to Council the adoption of plans and strategies reserved to the Council by statute or this Constitution.

Operation of the Executive

6. The arrangements for the discharge and delegation of executive functions are set out Part 3 of this constitution and within this article. If they are not set out there, then the leader may decide how they are to be exercised in accordance with sections 9E to 9EB of the Local Government Act 2000, as amended.

Form and Composition

7. The Cabinet will consist of between three and ten Councillors and will include the Leader of the Council appointed by the Council. The other members of the Cabinet will be appointed by the Leader of the Council and will include a Deputy Leader.

Leader

8. The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:
 - (a) they resign from the office or as a Councillor; or
 - (b) they are disqualified from being a Councillor; or
 - (c) the next Annual Council meeting after completing his/her term of office as a Councillor or until such other date as the Council may specify; or
 - (d) they are removed from office by resolution of the Council; or
 - (e) if removed from office by virtue of any regulations made pursuant to the Local Government Act 2000 or the Localism Act 2011

NB: The person who is elected as Leader of the Council remains a member of the Council during the period that he or she is appointed as Leader of Council even if they

are not re-elected, except where the person ceases to be Councillor by virtue of resignation or disqualification.

Deputy Leader

9. The Leader will appoint a Deputy Leader of the Council from among those Councillors appointed to the Cabinet. The person appointed as Deputy Leader shall, unless they resign as Deputy Leader or are disqualified from office, hold office until the end of any term of office of the Leader of the Council specified by the Council.
10. The Deputy Leader may be removed from office by the Leader of the Council if the latter thinks fit and the Leader must then appoint another person to be Deputy Leader.
11. If, for any reason, the Leader of Council is unable to act or that office is vacant, the Deputy Leader must act in the Leader of Council's place.

Other Executive Members

12. Other executive members (Portfolio Holders) shall hold office until:
 - (a) they resign from office or as a Councillor; or
 - (b) they are disqualified as Councillors;
 - (c) the next Annual Council meeting but may be re-appointed by the Leader of the Council for further terms of office; and
 - (d) they are removed from office, either individually or collectively, by the Leader of the Council.

Delegation by the Leader

13. The Leader will periodically review Executive delegations and publish a written decision of changes made to delegations made for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document will contain the following information about executive functions:
 - (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 Cabinet Committees as the leader appoints and the names of executive members appointed to them;
 - (iii) 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.

Leader and Deputy Leader – Unable to Act

14. If, for any reason, the Leader of the Council is unable to act or the office of Leader is vacant and the Deputy Leader is unable to act or the office of Deputy Leader is vacant, the Executive must act in the Leader's place or must arrange for a member of the Executive to act in the Leader's place until such time that the Council appoints a new Leader of Council.

Portfolio Holder Assistants

15. The Leader of the Council may appoint Portfolio Holder Assistants who shall –
 - (a) Assist the designated Portfolio Holders in shaping and developing the strategic priorities of the Council as it relates to the allocated portfolio.
 - (b) Assist the designated Portfolio Holders 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 Portfolio Holders at meetings or visits.
16. Such appointments shall be at the discretion of the Leader. 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.
17. Portfolio Holder Assistants shall not be members of the Cabinet, or any Cabinet Committee and may not exercise any executive powers. Assistant Portfolio Holders may be invited to speak at Cabinet or Cabinet Committee meetings on matters where they assisted Portfolio Holders but may not vote.

Conflicts of Interest/Absence of Decision taker

18. Any pecuniary or non-pecuniary interest arising from the exercise of an executive function, individually or collectively should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
19. The Leader may take a decision, direct another Portfolio Holder to do so, refer the matter for Cabinet decision or delegate to the decision to another officer where:
 - (i) The exercise of an executive function that has been delegated to an individual member or an officer gives rise to a pecuniary or non-pecuniary interest; or
 - (ii) The decision taker is unavoidably absent.

Meetings of the Cabinet (Executive)

(a) Access for Public and Press

20. All meetings of the Cabinet and Cabinet Committees shall be held in accordance with the Access to Information Procedure Rules of this Constitution.

(b) Application of Rules

21. Meetings will be subject to those rules that are applied to the executive in the Rules section of this constitution.

(c) Business to be conducted at each ordinary meeting

22. 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 the overview and scrutiny committee or by the Council) for consideration by the executive in accordance with the call-in provisions or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) Consideration of reports from overview and scrutiny committees on items on the Cabinet Agenda;
- (v) Reports from individual members of the Executive, the Leader, any other member of Council or statutory officers (see provisions in Article 7.xx below). 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;
- (vi) Minutes from Cabinet Committees requiring approval; and
- (vii) Questions from members of the public in accordance with the Council's scheme.

(d) Other items that can be put on the Cabinet agenda

- 23. The Leader may put on the agenda of any executive meeting any matter which he/she wishes. The Proper Officer will comply with the leader's requests in this respect.
- 24. Any member of the Cabinet may require the Proper Officer to place an item on the agenda of the next available meeting of the Cabinet for consideration.
- 25. Any member of the Council may ask the Leader to put an item on the agenda of an Cabinet meeting for consideration, and if the leader agrees the item will be considered at the next available meeting. In the event that the Leader refuses to agree the request, the relevant member of the Council shall receive an explanation of that refusal and it will be published in the Council Bulletin.
- 26. 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 Cabinet soon enough to deal with the issue in question, 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.

(e) Requests by the Public/Outside Organisations to Address the Cabinet

- 27. 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.
- 28. 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 no later than 4 pm on the day of the meeting;
- (iv) requests accompanied by proposals to circulate written material must be received five 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.

(f) Decisions taken by the Cabinet

29. Decisions which have been delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules of this Constitution. Decisions taken shall meet all statutory requirements, based on all relevant factors including advice from relevant officers.

Portfolio Holder Advisory Groups

30. For the purposes of carrying out any Executive function any member of the Cabinet may convene a Portfolio Holder Advisory Group. Details of the arrangements for such groups are set out in the Appendix 1 to this Article.

Executive Committees

31. The Cabinet and/or the Leader may, from time to time, appoint Committees comprising solely members of the Cabinet to assist in the carrying out of executive functions as defined in Part 3 of this Constitution. Such appointment decisions shall include membership, terms of reference and reporting procedures as necessary. These shall be reviewed periodically and re-appointed as appropriate.

Details of current Cabinet Committees and their Terms of Reference are set out in Appendix 2 to this Article.

Action in Designated Emergencies

32. The procedure governing action required to be taken in emergency situations is set out in Appendix 3 to this Article.

PORTFOLIO HOLDER ADVISORY GROUPS

1. Purpose of Portfolio Holder Advisory Groups

Portfolio Holder Advisory Groups may be established for the purpose of advising members of the Executive on executive functions.

- (a) It shall be competent for a member of the Executive, whether acting on a personal basis under the terms of the scheme of delegation approved by the Cabinet or in any other connection, to establish such advisory groups.
- (b) Such groups may comprise members of the Executive, other members of the Council, representatives of other organisations, officers of this or other Councils or individual members of the community;
- (c) Each political group represented on the Council shall be invited to submit a representative to serve on any such group;
- (d) Advisory Groups may be established to carry out the following tasks:
 - (i) to advise a member of the Cabinet on the exercise of executive functions, including decision-making;
 - (ii) to act as a means of consultation on executive functions between the Cabinet member and the Council and the local community; and
 - (iii) to assist the Executive in developing or reviewing services or policy.

2. Limitations on the Operation of Advisory Groups

- (a) Advisory Groups shall be advisory only and may not exercise any decision-making powers, these being vested in the Executive in accordance with the Constitution;
- (b) The Executive will, through the appropriate member of the Cabinet, ensure that the Overview and Scrutiny Committee are advised of the establishment of such a group and of the outcome of its discussions;
- (c) Advisory Groups shall be reviewed annually and disbanded once their allotted tasks are completed; and
- (d) The Executive will record the advice of the Advisory Group and indicate its response to views expressed in the recording of its decisions.

**ARTICLE 7
(THE EXECUTIVE)
APPENDIX 2**

COMMITTEES OF THE EXECUTIVE - TERMS OF REFERENCE

1. From the start of the 2023-24 municipal year, the Leader ended the operation of all Cabinet Committees, so all Cabinet business would go directly to the Cabinet.

ACTION IN DESIGNATED EMERGENCIES

1. PURPOSE OF APPENDIX

- 1.1 To provide procedures which safeguard decision-making arrangements in emergency situations affecting the District which fall beyond the scope of the Council's Emergency Response Plan.
- 1.2 To provide procedures for decision-making in respect of any district or local emergency declared under the Council's Emergency Response Plan where members of the Council need to be involved.

2. DECLARING AN EMERGENCY

- 2.1 The procedures and delegated authorities contained in this Appendix shall apply in the following circumstances:
 - (a) where the Council or the District is affected by an emergency situation outside the scope of the District Emergency Response Plan to such an extent that the normal decision-making processes of the Council are comprised; or
 - (b) any district-wide or local emergency situation which is declared in accordance with the Council's Emergency Response Plan.

3. EMERGENCIES OUTSIDE THE SCOPE OF THE DISTRICT EMERGENCY RESPONSE PLAN

Role of the Leader of the Council

- 3.1 The Leader of the Council, after consulting the Chairman of the Council, the Head of Paid Service, the Chief Financial Officer and the Monitoring Officer and taking account of any advice from central government or other agencies, shall be authorised to determine that it is in the best interests of the Council and/or the district to declare an emergency and implement the procedures set out in Section 3.6 below.
- 3.2 For the purposes of such a declaration the Leader must be satisfied that the decision-making processes of the Council are unable to function as intended as a result of the number of members able to act being so depleted by reason of medical or other emergency that normal arrangements cannot meet the Council's requirements.

Declaring An Emergency

- 3.3 In making such a declaration, the Leader of the Council is required to:
 - (a) record the terms of the declaration of the emergency in writing;
 - (b) declare the period over which the emergency situation will apply which, in the case of national or international emergencies, will be the period declared by the

Government or for period up to one month, if there is no such government guidance;

- (c) communicate this declaration to the public, members of the Council and other relevant external agencies and partners except where an emergency has been declared by the Government; and
- (d) comply in all respects with relevant Government guidance and the advice of the Head of Paid Service, Monitoring Officer and Chief Financial Officer.

Extending the Emergency Period

- 3.4 Where an emergency has been declared by the Government and subsequently extended, the Leader shall be able to exercise the authority to act as set out in 3 below.
- 3.5 Where the emergency has been called on a District basis, the Leader may also consider before the date of termination whether the period for emergency measures should be extended for a further period of one month. In considering this possibility, the Leader shall take advice in accordance with paragraph 3.1 above and consult all available members of the Council on the proposal. Such an extension may be the subject of further extensions. However, it shall be competent for the Chairman of the Council in accordance with Council Rules to convene a meeting of the Council for the purpose of considering whether to terminate the emergency if they consider this necessary.

Leader's Authority to Act

- 3.6 Once an emergency situation has been declared in accordance with these procedures, the Leader of the Council is authorised as follows:
 - (a) To suspend any part of the Constitution for the duration of the designated period of emergency accept insofar as it would conflict with the Council's legal duties and obligations;
 - (b) To take such steps as are necessary to ensure that the Cabinet can continue to make decisions on the emergency which bear directly on the wellbeing of the district (or any part thereof) or its inhabitants, including:
 - (i) appointment of substitute Cabinet members to replace those members of the Cabinet who are incapacitated by illness or otherwise unavailable to participate in decision-making, such substitutes to include, where appropriate, Assistant Portfolio Holders;
 - (ii) if necessary, to appoint an Emergency Committee of the Cabinet to co-ordinate decision-making during the emergency;
 - (iii) if necessary, to determine that decision-making be conducted either by telephone, correspondence or by electronic means whatever is appropriate in the light of available advice;
 - (c) To incur expenditure under Section 138 of the Local Government Act 1972 outside the budget framework agreed by the Council which is considered essential to meet any immediate needs created by the emergency and to consult

with the Chairman of the Council, the relevant Portfolio Holder, other Group Leaders and the Head of Paid Service on such commitments;

- (d) To suspend meetings of the Council, Committees, Sub-Committees, Panels or other body where those decisions are deemed not to be urgent on the grounds that the wellbeing of the district or its inhabitants will not be adversely affected by delay;
- (e) To determine the priority to be given to such urgent decisions referred to under (d) above once the emergency has terminated;
- (f) To consider appropriate measures to ensure that the Council, the public and partner organisations are kept informed of the decisions being made.

3.7 In the event that both the Leader of the Council and the Deputy Leader are incapacitated by illness or other reasons and are unable to exercise the delegated authorities set out in (b) above, the Chief Executive shall, in consultation with the Chairman of the Council, secure a nomination for Acting Leader from among those Cabinet Members who are still able to act.

4. EMERGENCY SITUATIONS ARISING FROM THE EMERGENCY RESPONSE PLAN

Role of the Leader of the Council

- 4.1 The Leader of the Council, when advised by the appropriate officer of an emergency situation affecting the district or part of the district shall consider the need for the Cabinet to make decisions on the emergency and may convene an Emergency Cabinet Committee comprising at least three Cabinet members.
- 4.2 In considering whether an Emergency Cabinet Committee is required, the Leader will take into account the advice of the Head of Paid Service and the District Emergency Planning Officer.

Terms of Reference for Emergency Cabinet Committee

- 4.3 The terms of reference for any Cabinet Committee shall include:
 - (a) To receive reports on the emergency situation and progress in dealing the emergency through the Emergency Response Plan.
 - (b) To receive recommendations from the appropriate officers in support of (a) above including the allocation of resources under Section 138 of the Local Government Act 1972.
 - (c) To report to the Cabinet and the Council on the emergency and the action being taken to remedy the situation together with any other terms of reference specific to the emergency concerned.
- 4.4 All statutory procedures regarding recording of decisions by the Sub-Committee shall be followed and the Committee will be disbanded when the emergency is over.