

Executive Procedure Rules

1.0 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, these arrangements or~~ Ithe Leader ~~may provide~~decides how the for executive functions ~~shall~~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;
- (v) joint arrangements; or
- (vii) 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 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 size of the Executive;

(ii) the names, addresses and wards of the people appointed to the executive by the Leader;

(iii) the name address and ? of the person appointed to be the Deputy Leader;

(viii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;

(viii) the terms of reference and constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;

(vi) 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

(vii) 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) Any Executive function which is the responsibility of a Member or Members may be delegated, for example, to an officer. 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.~~

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~~(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.~~

(~~b~~) 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 **E**xecutive 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) ~~If~~ the Leader ~~is able to decide whether to delegate executive functions, he/she~~ may amend the scheme of delegation relating to **E**xecutive 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 **E**xecutive 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 ~~C~~ommittee, notice will be deemed to be served on that ~~C~~ommittee when he/she has served it on its Chairman.

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 **E**xecutive has a conflict of interest

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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 **E**xecutive function has been delegated to a **C**ommittee of the **E**xecutive, 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 least 6 times per year at times to be agreed by the Leader. The **E**xecutive shall meet at the Council's offices at Wallfields, Pegs Lane, Hertford, Hertfordshire or another location to be agreed by the Leader.

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1.7 Quorum

The quorum for a meeting of the **E**xecutive, or a **C**ommittee of it, shall be 4 Members of the **E**xecutive.

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1.8 How are decisions to be taken by the **E**xecutive?

- (a) Executive decisions which have been delegated to the **E**xecutive 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 **E**xecutive decisions are delegated to a **C**ommittee of the **E**xecutive, the rules applying to **E**xecutive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

2.0 DECISION-MAKING

2.1 Definition of key decisions

Key decisions shall only be taken at a meeting of the Executive (ie not by the Leader or a Portfolio Holder or an officer). A key decision is defined in Article 13.3(b) (i) of the Constitution. Every matter which is to be the subject of a Key decision must have been included in the Forward Plan (see paragraph 14 of the Access to Information procedure rules in part 4 of the Constitution) or fall within the General Exception (paragraph 15 of the Access to Information procedure rules) or comply with the Special Urgency conditions (paragraph 16 of the Access to Information procedure rules).

2.2 How key decisions are made

Prior to any key decision being taken, Scrutiny will be given the opportunity to consider the item, unless it is an urgent item (as defined in paragraph 16 of the Access to Information Rules). The Scrutiny Committee will receive a full report on the item and consider it before the meeting of the Executive where the decision is to be taken, if requested by the Chairman of the Scrutiny Committee. The Executive shall take account of the views of the Scrutiny Committee in reaching its decision.

2.3 Portfolio Holder (non key) decisions

2.3.1 The Leader and Portfolio Holders are authorised to take executive decisions on all non-key matters within their respective portfolios, subject to the matter being considered by Members through intranet discussion.

2.3.2 Before taking any non-key decisions, the Leader or Portfolio Holder must consult all Members. A full report on the non-key decision shall be posted on the intranet and Members may respond within 7 working days.

2.3.3 All decisions will be recorded and signed off by the Leader or Portfolio Holder. Where a request is made for further information, the decision may be deferred for the information to be supplied.

2.4 Other (non key) Executive decisions

2.4.1 Within its terms of reference, the Executive is authorised to make

- (1) decisions which are not key decisions and do not fall within the portfolios of the Leader or any Portfolio Holder or their respective delegations or the delegation to any officer; and
- (2) decisions on matters which, whilst falling within a portfolio or delegation, the Chief Executive or other chief officers think it more appropriate to put on the Executive agenda for decision.

2.5 Portfolio Holder Decisions: Supplemental Rules

2.5.1 The following additional rules apply to Portfolio Holder decisions:

- (A) If the Leader or a Portfolio Holder has a personal or prejudicial interest in any matter which s/he is requested to consider, s/he shall immediately return the papers to the Chief Executive and ask for them to be re-allocated. It is incumbent on Council officers to brief themselves as well as possible to avoid this situation arising.
- (B) If a Portfolio Holder is absent or unavailable for any reason, the Leader of the Council (or in his/her absence the Deputy Leader) may, by written notice to the Chief Executive, have power to temporarily re-allocate that portfolio to another Executive Member until the next Executive meeting (when the Executive can decide the matter).
- (C) If a Portfolio Holder is unable to act for any reason (e.g. s/he has a personal or prejudicial interest), the Leader of the Council is authorised to make the decision or in his/her absence or at his/her request the Deputy Leader is authorised to make the decision. If the Leader is unable

to act, the Deputy Leader is authorised to make the decision.

- (D) In respect of any ordinary business, the Leader or a Portfolio Holder may exceptionally decline to decide the matter and instead ask the relevant chief officer to put it on the agenda for the next Executive meeting.
- (E) In respect of any urgent business, if the Portfolio Holder delays or declines to make a decision the Chief Executives shall have power to seek a decision from the Leader or Deputy Leader.
- (F) Before making a decision, full consideration shall be given by the Leader and Portfolio Holders to all reports posted on the intranet and any comments made by Members.
- (G) Before making a decision, where necessary, consideration shall be given to the need for further consultation or information.
- (H) Decisions shall be published electronically and in accordance with Access to Information Procedure Rules.

3.0 HOW ARE EXECUTIVE MEETINGS CONDUCTED?

3.1 Who presides?

The Leader will preside at any meeting of the executive or its committees at which he/she is present, or may appoint another person to do so.

3.2 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 **E**xecutive (whether by a **S**crutiny **C**ommittee or by the Council) for reconsideration by the **E**xecutive 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;

(iv) consideration of reports from **S**crutiny **C**ommittees;

and

(v) 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.

3.3 Consultation

All reports to the **E**xecutive from any Member of the **E**xecutive 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 **S**crutiny **C**ommittees, 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.

3.4 Who can put items on the **E**xecutive agenda?

The monitoring officer and/or the chief financial officer may request an item be included for consideration on the agenda of an **E**xecutive meeting and may request the Director of Internal Services 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 **E**xecutive needs to be called to consider a matter that requires a decision, they may jointly

request that an item be included on the agenda of an
to Executive meeting. If there is no meeting of the Executive soon enough

deal with the issue in question, then the person(s) entitled to request that an item be included on the agenda may also request that a meeting be convened at which the matter will be considered.

EXECUTIVE DECISION-MAKING PROCESS

