

# Executive Procedure Rules

## 1. Executive Decisions

1.1 Executive functions may be discharged by one or more of the following:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive; or
- (iv) an officer.

## 1.2 Delegation by the Leader

Where the Leader intends to change the Executive powers' scheme of delegation, he/she shall present at the annual Council Meeting, a written record of delegations made by him/her for inclusion in the Council's scheme of delegation.

The written record presented by the Leader will contain the following information about executive functions:

- (a) the names of the members appointed to the Executive by the Leader.
- (b) the extent of any authority delegated to the executive members individually (if any) including details of the limitations on their authority.

## 1.3 Sub-delegation of Executive functions

- (a) Where the Executive is responsible for an Executive function, it may delegate further to a member of the Executive or an officer.
- (b) Where the Leader delegates functions to the Executive, then the Executive may further delegate to an Executive Committee or an officer.
- (c) Unless the Leader directs otherwise, an Executive committee to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where Executive functions have been delegated, the discharge of those functions by that person or body who so delegated shall not be prohibited.

## 1.4 The Council's scheme of delegation and Executive functions

- (a) The Leader may amend the scheme of delegation relating to Executive functions at any time throughout the year. To do so, the Leader must give notice to the councillor or committee concerned.

- (b) 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.

#### 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

The Executive will normally meet at least twice per Council cycle at times published in the Council's Calendar of Meetings. The Executive shall meet at the Council's main offices or such other location to be agreed by the Leader.

#### 1.7 Decisions 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 set out in Part 4 of this Constitution which set out the requirements covering public and private meetings. Other than the legal requirements, consideration will also be given to any principles of decision-making set out in Article 12 of this 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.

#### 1.8 Quorum

The quorum for a meeting of the Executive, or a committee of it, shall be one quarter of the total number of members of the Executive, or three, whichever is the larger.

## **2. Conduct of Executive Meetings**

### **2.1 Chairing**

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

### **2.2 Attendance**

All meetings of the Executive are open to the press and public in accordance with these rules unless confidential or exempt information is to be discussed.

### **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 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 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) The Monitoring Officer and the Director Finance may include an item on the Executive agenda for consideration in pursuance of their statutory duties.

## **3. Role of Portfolio Holders**

3.1 Portfolio Holders will undertake the following roles which are in addition to the general role of the councillor set out in this constitution.

1. To promote the key objectives and values of the Council.
2. To ensure that new policies are developed and presented to the Executive within the overall strategic approach of the Council after full consultation with external stakeholders (where appropriate), relevant Scrutiny Committee and fellow Executive members.
3. To give guidance on budget and political priorities to officers and liaise on the need to develop policy issues and the timing thereof.
4. To contribute to the effective decision-making of the Executive.

5. To act as a public spokesperson for the Council within agreed parameters within the portfolio area of responsibility and in accordance with the former DTLR Code of Recommended Practice on Local Authority Publicity.
  6. To assist in promoting reports produced by officers to the Executive and to attend Scrutiny Committees as required to answer questions from Members and the public, to report and comment on items which concern the relevant portfolio or when an item is called in.
  8. To respond on behalf of the Council to relevant consultation documents after consulting with scrutiny committee wherever appropriate.
  9. To aid the Council in pursuing its defined community leadership role.
4. **Rules relating to the exercise of delegated powers by Executive members:**
- 4.1 Only those members properly appointed to make decisions under the Council's scheme of delegation shall be entitled to exercise those powers.
  - 4.2 An Executive member or officer exercising delegated power shall have the discretion not to exercise those powers, choosing instead to refer the matter back to the Executive for a decision.
  - 4.3 The exercise of delegated authority by an Executive member shall be carried out in the following way:
    - (a) A report by the lead officer shall be provided to the Executive member setting out all the background information including all the options available, including corporate, financial, legal, human resources and property implications of making the decision. Before the decision is taken, comment shall be sought from the Chief Executive as well as the Director/Director Finance/Director Corporate Services /Corporate Manager whose area of responsibility may be affected by the decision. The Executive member shall liaise with the Lead Officer and any other appropriate officer and a record of the decision will be taken.
  - 4.4 Recording and publication of delegated decisions
    - (1) All delegated decisions taken by Executive members shall be recorded and published on the Friday following the decision with request for call-in within 5 working days thereafter.
    - (2) Delegated executive decisions shall contain the following information:
      - (a) a description of the matter including the officer's report;

- (b) the name of the Executive member exercising the delegated authority;
- (c) the decision together with the reasons for it;
- (d) the options considered;
- (e) who was consulted before the decision was made;
- (f) the date when the decision was made;
- (g) any corporate, financial, legal, human resources or any other management implications; and
- (h) background papers.

#### 4.5 Implementation of delegated Executive member's decision

##### (a) Non-urgent decisions

Shall come into force five working days from the date of publication. If the decision shall be called in for scrutiny, then the rules contained in the Call-in procedure shall apply.

##### (b) Urgent decisions

In cases of urgency, Executive decisions may be taken by the relevant Portfolio Holder provided that:

- such a decision is made in accordance with the Council's agreed budget and policy framework;
- Any decision which commits the Council to expenditure shall be taken in agreement with, the Director Finance and the appropriate member of the Strategic Management Board("SMB")
- The Chair with relevant responsibilities will be consulted in relation to Urgent decisions to be made within the Scrutiny Committee's terms of reference

## 5. **Call-in Procedure Rules within the Budget and Policy Framework**

5.1 Call-in is an important part of the check and balance upon Executive power. Government guidance provides that call-in should only be used in exceptional circumstances.

5.2 The power of Call-in applies to the following executive decisions:

- (a) decisions of the Executive
- (b) delegated decisions taken by Executive members.

- 5.3 (a) All Executive decisions shall be published within two working days of the meeting.
- (b) The Democratic Services Manager shall publish details of all Executive decisions made by an Executive member or an officer with delegated authority. This notice of decision will be published by the subsequent Friday after the decision has been made and details will be sent to all Councillors electronically.
- 5.4 In order to ensure the decisions of the Executive are not unnecessarily impeded, the reasons for call-in must be one of the following criteria:
- The process by which the decision was made was deficient in some way;
  - The decision-maker failed to consider alternative courses of action;
  - The decision-maker failed to take account of relevant factors;
  - The decision-maker was wrong in fact or law (the caller-in must state why).

## 6. **Exceptions to call-in procedure**

6.1 Call-in will not apply to the following:

- Non-Executive decisions
- Decisions already called in once
- Decisions which have already been considered by the relevant Scrutiny Committee
- Non-key decisions made by delegated officers
- Urgent decisions