

## Part 6: Executive Procedure Rules

(February 2023)

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The arrangements for the discharge of executive functions are set out in the Executive Terms of Reference (Part 2 of the Constitution).

### **6.1 The Executive Work Programme (including the 28 day notice)**

#### **6.1.1 Contents**

The work programme will:

- contain matters which there is reason to believe will require a key decision to be

taken (as set out in the Executive Terms of Reference and below at 6.2) during the period covered by the work programme

- contain wherever possible any other items of future Executive business which the council is aware of
- also provide notice of any item of business which is likely to be considered following the exclusion of the press and public.

The work programme will be available at the council offices (during the hours the offices are open) and published on the website.

The work programme will describe the following particulars in so far as the information is available or might reasonably be obtained:

- the matter in respect of which a decision is to be made;
- the name and title of the individual making a decision, if any and where the decision taker is a body, its name and details of membership;
- the date or the period within which, the decision will be taken;
- the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- a list of the documents submitted to the decision taker for consideration in relation to the matter if any and the address from which they may be obtained.
- whether it is intended to consider any of the items in private (as exempt or confidential business)

### **6.1.2 Period**

The programme will cover the next period of four months, beginning with the first day of the coming month. The Work Programme must be published at least 28 days before the start of the period covered.

## **6.2 Definition of Key Decision**

(This is also set out at Part 2 of this Constitution and the published Forward Plan)

A Key Decision is a 'significant' decision that is legally within the power of the Council to make, is not precluded by statute from being made under the Executive arrangements and is not otherwise retained for decision by Council or delegated to a Committee of Council or Officer by this Constitution.

Significance - A decision is significant if it meets the financial and/or community impact criteria:

### **Financial**

A decision that will result in the Council:

- Incurring potential revenue expenditure or savings above an amount to be determined by Council annually, currently decisions above £250,000
- Incurring potential capital expenditure or savings above an amount to be determined by Council annually, currently decisions above £250,000
- Procuring or awarding any Contract having a total value exceeding £500,000.

and/or

### **Community Impact**

A decision that is significant in its effects on communities living or working in an area comprising two or more Wards in the area of the Council. That is a decision where:

- A significant number of users of the service in the Ward(s) will be affected and/or
- An impact that will last for a number of years, or be permanent; and /or
- A significant impact on communities in terms of environmental and social well-being.

The following are not regarded by the Council to constitute key decisions:

- Implementing approved budgets or policies and strategies where there is little or no further choice involved and the main decision has already been taken by the Council in agreeing the budget and policy framework.
- Implementing approved actions and targets in annual service plans.
- Decisions by the Assistant Director of Finance which are part of the ordinary financial administration of the Authority, notably those relating to investments, within the agreed Treasury Management policy.
- Implementing projects for which specific conditions have been attached by external funders, such as the Government or European Union.
- The award of contracts for the provision of works, goods and services, within an agreed policy and budget and where a decision has been made.
- Changes arising from amendments to statute where there is little or no discretion.

## **6.3 Key Decisions not Included in the Work Programme**

If a matter which is likely to be a Key Decision has not been included in the Work Programme, the decision may still be taken if:

- the decision must be taken by such a date that it is impracticable to defer the

decision until it has been included in the next forward plan.

- the Chief Executive has informed the Chairman of the Overview and Scrutiny Committee, or in their absence each member of that Committee, in writing of the matter about which the decision is to be made and that a notice is made available to the public at the offices of the Council and published on the website which shall include details of why it was not possible to provide 28 day notice; and
- at least 5 clear days have elapsed since the Chief Executive provided the information as set out above.

#### **6.4 Urgent Key Decisions not Included in the Work Programme**

If by virtue of the date by which a decision must be taken the above provision cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chief Executive obtains the agreement of the Chairman of the Overview and Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred. If there is no Chairman of the Overview and Scrutiny Committee, in their absence the Chairman of the Council, or in their absence the Vice-Chairman of Council will suffice.

All Members will be notified as soon as reasonably practicable when this provision is utilised and a notice will be made available to the public at the offices of the Council and published on the website which shall include details of why it was urgent and could not be reasonably deferred;

The Leader of the Council will report details of any key decision taken which was not included in the published Executive Work Programme to the next available meeting of the Council. If the next meeting of the Council is within 7 days of receipt of the written notice the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision.

#### **6.5 Confidential or Exempt Business not included in the Work Programme**

If an item of business in respect of which it is anticipated that the relevant part of the meeting of the Executive or one of its Committees will be held in private because of the likely disclosure of confidential or exempt Information has not been included in the Work Programme with such an indication the item may only be discussed in private if the Chief Executive has obtained the prior agreement of the Chairman of the Overview and Scrutiny Committee. However this does not preclude the relevant meeting from resolving to exclude the public for a relevant item of business which it was not anticipated would be considered in private if it becomes apparent at the meeting that confidential or exempt information would otherwise be disclosed.

## 6.6 Agendas for Executive Meetings

An agenda will be published at least 5 clear days before the meeting setting out any business to be transacted in private (exempt or confidential), the reason why it is exempt or confidential and any representations received and response given regarding these.

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

- elect a person to preside if the Chairman and Vice-Chairman are not present;
- receive any apologies for absence;
- receive any declarations of interest from members;
- to report any petitions and requests to address the meeting on an item on the agenda, or to receive an address;
- consider any urgent items of business as agreed by Chairman;
- approve the minutes of the last meeting;
- deal with any business remaining from the last meeting;
- any other business on the agenda, including referrals from Council, Committees, Executive Portfolio Holders;
- pass a resolution to exclude the public for any items involving the likely disclosure of exempt or confidential information;
- any exempt business on the agenda;

The Chairman, or the meeting by resolution, may vary the order of business.

## 6.7 Rights to Request or Require an Agenda Item

### 6.6.1 Members of Council

Any Member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration. If the Leader agrees the item will be considered at the next available meeting of the Executive.

The agenda for the meeting will give the name of the Member who asked for the item to be considered and they will be invited to attend the meeting, to be able to address the Executive.

If an item is requested for inclusion on the agenda by a member of the Council (including a member of the Executive), then it will be included with such information as is available at the time, but it shall only be considered and decided if it is possible to produce a full report containing relevant information to enable a decision to be properly made.

The Executive will be able to defer any matter added to its agenda in this way, to

enable a proper report to be prepared and, if this is the case, the matter will normally be considered at the next meeting.

If there are several such items on the Executive's agenda it may decide to defer consideration of any of them, as it sees fit.

#### **6.6.2 Head of Paid Service, Monitoring Officer and Section 151 Officer**

The Head of Paid Service, Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of an Executive meeting. The Monitoring Officer and Section 151 Officer may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

In other circumstances, where any two of the Head of Paid Service, Section 151 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.

### **6.8 Volume of Business**

If the volume of business for a meeting of the Executive is considered to be excessive, the Leader may defer consideration of items to a later meeting with the exception of:

- items referred to the Executive by Council or the Overview and Scrutiny Committee, if the Council or Overview and Scrutiny Committee has requested they be dealt with at that meeting.
- reports of Statutory Officers unless the relevant Officer concurs.

Deferred items will be dealt with at the next ordinary Executive meeting or a Special Meeting convened for the purpose within 4 weeks.

### **6.9 Notice of Decisions made under Executive Arrangements**

A summary notice of decisions made under the Executive arrangements shall generally be published on the next working day (or in any event as soon as possible) after the decision has been made and shall be circulated to all Members of the Council. This shall include a record of the decision and the date it was made, the reasons for the decision, any alternative options considered and rejected by members in making the decision, a record of any conflict declared by the decision maker or member of the decision making body and any dispensations granted.

### **6.10 Minutes of Executive Meetings**

The minutes will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, any conflicts of interest declared and any dispensations granted.

## **6.11 Executive Portfolio Holder Decisions**

### **6.11.1 Reports**

Executive Portfolio Holders will receive reports on issues where they are asked to make a non key decision. Such reports shall be sent to the Executive Portfolio Holder and published 5 days before any decision may be made. Reports shall be publicly available unless they contain exempt or confidential information.

### **6.11.2 Decision Notice**

As soon as reasonably practicable after an Executive Portfolio Holder decision has been taken on a non key decision (by the Executive Portfolio Holder or by an officer through delegation), they will instruct the relevant Officer to prepare and publish a record of the decision, a notice of the reasons for it, any alternative options considered and rejected, any conflict of interest declared by a consulted member and any dispensations granted

### **6.11.3 Access to Documents**

The provisions with regard to accessing agendas, minutes and background papers (as set out in the meeting procedure rules) and the provisions with regard to accessing documents in the control of the Executive (as set out in these procedure rules) shall apply to documents relating to Executive Portfolio Holder Decisions.

## **6.12 Consultation**

All reports to the Executive must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **6.13 Access to Documents under the Control of the Executive**

All Members of the Council will be entitled to inspect any document which is in the possession or under the control of the Executive and/or contains material relating to any business to be transacted or previously transacted (including officers acting under delegation) unless:

- it contains exempt information falling within the categories of exempt information or confidential information; in which case the Member will need to demonstrate 'a need to know', or
- it contains the advice of a political adviser.

## 6.14 Budget and Policy Framework

### 6.14.1 Process for developing the Policy Framework

The **Executive Work Programme (including the 28 day notice)** will set out the timetable for making proposals to the Council to develop the budget and policy framework and the arrangements for consultation. Four months' notice (and at least 6 weeks) will normally be provided.

At the end of that period, the Executive will then draw up proposals having regard to the consultation responses received. If the Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. The report will reflect the comments made by consultees (in particular Overview and Scrutiny) and the Executive's response to them.

The proposals will be referred to Council for decision at the earliest opportunity.

### 6.14.2 Decisions outside the Budget or Policy Framework

If the Executive or any Committees of the Executive discharging executive functions wish to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they wish to make would be contrary or not wholly in accordance with the policy framework, or budget.

If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, except in the circumstances as set out below:

### 6.14.3 In-year changes

The Executive may make in-year changes to the Budget and Policy framework in the following circumstances only:

- Changes which will result in the closure or discontinuance of a service or part of service or level of service to meet a budgetary constraint;
- Changes which may be necessary to ensure compliance with the law, ministerial direction or government guidance;
- Changes which may vary or develop the policy framework provided they are consistent with its principles and which, with any virement or supplementary expenditure, that may be possible under the Council's Financial Procedure Rules, be implemented within budget for the year, provided such changes do not commit the Council to expenditure in subsequent financial years.

### 6.14.4 Urgent changes

A decision outside the budget and/or policy framework may be made under the Executive arrangements, if it is not practical to convene a quorate meeting of full Council and if the Chairman of the Overview and Scrutiny Committee (or in their

absence the Chairman of Council) agrees.

The reason why it is not practical to convene a quorate meeting of full Council and the consent of the Chairman of the Overview and Scrutiny Committee to the decision being taken as a matter of urgency must be noted in the record of the decision.

Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **6.14.5 Virement**

The Executive arrangements discharging functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, they shall be entitled to vire across budget heads in accordance with the rules specified by the Council's Financial Procedure Rules.