

Cabinet Procedure Rules

INTRODUCTION

The Council has established the Cabinet (also known as the Executive) in accordance with section 9C (3) of the Local Government Act 2000 (as amended by the Localism Act 2011) to undertake executive functions.

1. Application of the Meetings General Procedure Rules

- (1) The Meetings General Procedure Rules shall apply to all meetings of the Cabinet except as varied by these Cabinet Procedure Rules.

2. Terms of Reference of the Cabinet

- (1) To be responsible for all of the Council's executive functions as defined in the Local Government Act 2000 (as amended) and Regulations.

HOW THE CABINET OPERATES

3. Who may make executive decisions?

- (1) The arrangements for the discharge of executive functions are set out in Article 12 (Decision Making) and Part 3 of this Constitution. They provide for executive functions to be discharged by:
 - (a) the Leader of the Council
 - (b) Cabinet as a whole;
 - (c) a Committee of the Cabinet;
 - (d) an individual Cabinet member;
 - (e) an Officer;
 - (f) joint arrangements; or
 - (g) another local authority.

4. Delegation by the Leader of the Council

- (1) At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made 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:
 - (a) the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
 - (b) the nature and extent of any delegation of Cabinet functions to area committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint committee for the coming year; and

- (c) 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.

5. Sub-delegation of Cabinet functions

- (1) Where the Cabinet acting as a whole or an individual Cabinet member is responsible for a Cabinet function, they may delegate further to an area committee, joint arrangements or an officer.
- (2) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate to an officer.
- (3) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

6. The Council's Scheme of Delegation and Cabinet Functions

- (1) 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.
- (2) The Leader may amend the Leaders Scheme of Delegation relating to Cabinet 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 Cabinet as a whole.
- (3) Where the Leader seeks to withdraw delegation from a joint committee, notice will be deemed to be served on that joint committee when they have served it on its Chair.

7. Conflicts of Interest

- (1) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Members' Code of Conduct in Part 5 of this Constitution.
- (2) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Members' Code of Conduct in Part 5 of this Constitution.
- (3) If the exercise of a Cabinet function has been delegated to an individual member of the Cabinet 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 Members' Code of Conduct in Part 5 of this Constitution.
- (4) If a Cabinet member has a conflict of interest in a matter it will be recorded in the minutes of the meeting together with a note of any

dispensation granted to the Cabinet Member by the Head of Paid Service.

8. Cabinet Meetings – When and Where?

- (1) The Cabinet will normally meet regularly at times to be agreed by the Leader or the Proper Officer. Additional meetings may be called from time to time as and when appropriate. The Cabinet shall meet at the Town Hall, High Street, Colchester or another location to be agreed by the Leader.
- (2) A meeting of the Cabinet shall be summoned by the Proper Officer who will give a minimum of five clear working days' notice and comply with the Access to Information Rules set out in Part 4 of this Constitution.
- (3) The Cabinet shall fix the dates and times for the periodical meetings of the Cabinet, Panels and Committees throughout the ensuing Municipal Year. However, the Call-In Procedure meetings of the Scrutiny Panel and special meetings shall be fixed by the relevant body. The Proper Officer may, after consulting with the Leader of the Council, cause the Cabinet to be summoned.

9. Public or Private Meetings of the Cabinet?

- (1) Meetings of the Cabinet will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information Rules set out in Part 4 of this Constitution.
- (2) Any meeting of the Cabinet that will be considering an item containing exempt information or confidential information may only do so provided that at least 28 days prior public notice (including on the Council's website) has been given including the reasons why the meeting will be held in private.
- (3) In addition, a further public notice (including on the Council's website) must have been given at least five clear days before the date of meeting of its intention to hold the meeting (or part) in private. Such notice must include the statement of reasons why the meeting is being held in private and any representations received why the meeting should be held in public and any replies by the Council to such representations.
- (4) Provided that in circumstances when it is not possible to comply with the requirements of paragraphs (2) and (3) above, a private meeting may only be held if the Chair of the Scrutiny Panel (or in whose absence the Mayor or in their absence the Deputy Mayor) has agreed that the meeting is urgent and cannot be reasonably deferred.
- (5) As soon as reasonably practicable following the agreement of the person referred to in paragraph (4) that the meeting can be held in private a notice must be published (including on the Council's website) setting out reasons why the meeting is urgent and cannot be reasonably deferred.

- (6) The Leader or the person presiding at a meeting when the Cabinet is determining an exempt or confidential item may at their discretion require any officer(s) not involved in the item being determined to leave the room for the duration of the item.

10. Quorum

- (1) The quorum for the Cabinet shall be one half of the total membership, rounded up in the event of an odd number of members, provided that the minimum quorum shall be three.

11. How are decisions to be taken by the Cabinet?

- (1) Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (2) No matter on which a decision has been reached within the previous six months by the Cabinet, shall be further considered unless the Leader of the Council and/or the Proper Officer is/are satisfied that circumstances justify the matter being re-opened.

HOW ARE THE CABINET MEETINGS CONDUCTED?

12. Who presides?

- (1) The Leader if present will preside. In the Leaders absence, the Deputy Chair of the Cabinet shall preside. In the absence of both the Leader and the Deputy Chair of the Cabinet the members present may appoint another Cabinet member to preside.

13. Who may attend?

- (1) Members of the public (including Councillors who are not members of the Cabinet) may attend all meetings of the Cabinet except when exempt or confidential information is being considered where the press and public, may be excluded by resolution of the Cabinet in accordance with the Access to Information Rules contained in Part 4 of this Constitution.
- (2) A Councillor who has proposed a motion which has been referred to the Cabinet from the Council shall be given notice of the meeting of the Cabinet at which it is proposed to consider the motion and shall have the right to attend and to speak to the motion.

14. What business?

- (1) Meetings of the Cabinet will include the following business:
 - (a) Have Your Say!
 - (b) Consideration of the minutes of the last meeting;
 - (c) Urgent Items
 - (d) Declarations of Interest, if any;
 - (e) Matters referred to the Cabinet for reconsideration by the Cabinet in accordance with the provisions contained in the

- Overview and Scrutiny Procedure Rules or the Budget and the Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (f) Consideration of reports from the Scrutiny Panel, or other Panels;
 - (g) Forward Plan;
 - (h) Matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions.

Items (e)-(h) shall require written reports except in cases of urgency where it is impractical to do so

15. Consultation

- (1) All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the Budget and the Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders, the relevant Panel, the Scrutiny Panel and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate.
- (2) The level of consultation required will be appropriate to the nature of the matter under consideration.

16. Who can put items on the Cabinet agenda?

- (1) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. The Proper Officer will comply, subject to the agreement of the Leader.
- (2) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Scrutiny Panel. However, the number of items per Cabinet meeting will have regard to the amount of business on the agenda.
- (3) Any resolution of the Council which is required to be considered by the Cabinet will be so considered at its next regular meeting following the date of the Council resolution.
- (4) The Chief Executive, Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where the Head of Paid Service or Section 151 Officer or Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet 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.

17. Timescales

- (1) In considering matters in relation to budgetary issues the Cabinet will have due regard to any appropriate timescale within which the budget has to be approved by the Council. By way of example the timescale required to deal with this will include consultation with partners and other external agencies plus reference to the Scrutiny Panel.

18. Key Decisions

- (1) Key Decisions shall only be taken provided that the matter in question is contained within the Forward Plan, or if not in the Forward Plan, after giving five working days' notice, together with a report to the Chairman of the Scrutiny Panel and with the consent of the Chairman of the Scrutiny Panel.

19. Recording of Decisions

- (1) All decisions which include Key Decisions are to be made by a simple majority of those members of the Cabinet present and voting at the meeting.
- (2) Following a meeting of the Cabinet at which a report (whether oral or in writing) has been received and at which an executive decision has been made or a decision of an individual Cabinet member after consideration of a report, the Proper Officer shall ensure that a written statement is kept which must include the following: -
 - (a) record of the decision;
 - (b) record of reasons for the decision;
 - (c) details of alternative options considered;
 - (d) record of any conflict of interest declared; and
 - (e) any dispensation granted, where appropriate.

20. Officer Attendance

- (1) No decision will be made by the Cabinet unless there is present at the meeting an appropriate officer and /or the Proper Officer for recording the meeting.
- (2) A written statement of the decision taken will be produced by the Proper Officer by 5pm the next working day following the Cabinet meeting or after the individual Cabinet member instructs the officer to do so.

21. Urgent Decisions and Call- in

- (1) Where an urgent decision has been taken by the Cabinet or a Cabinet Member with delegated authority this will be recorded, and this decision will not be subject to Call-In (see Overview and Scrutiny Rules).

22. Matters of Urgency

- (1) Where the Proper Officer considers that a matter of urgency has arisen in connection with the work of the Cabinet and requires a decision before the next regular meeting of the Cabinet, the Leader of the Council or in whose absence the Deputy Leader or in whose absence the Portfolio Holder who has responsibility for the matter concerned, shall have power to act and shall report the action to the next meeting of the Cabinet; provided that no action shall be taken under this provision except in matters which have been delegated by the Council to the Cabinet or to a Committee.
- (2) A decision made by the Cabinet pursuant to Cabinet Procedure Rule 22 (1) shall not be subject to the Call-In Procedure and may be implemented with immediate effect. A report of the action taken shall be submitted to the next meeting of the Cabinet.