

## **Part 2 – Leader / Cabinet Procedure Rules**

### **1. Discharge of Executive Functions**

1.1 Executive functions may be discharged by:

- (a) The Leader
- (b) The Cabinet as a body
- (c) A Committee of the Cabinet
- (d) An individual Member of the Cabinet
- (e) An Officer
- (f) Joint arrangements, partnership boards and other such bodies
- (g) Another local authority
- (h) Area Committees

#### **Delegation by the Leader / Cabinet portfolios**

1.2 At the Annual Meeting of the Council, the Leader once elected will present to the Council a statement comprising:

- (a) the names of the Members whom he/she has appointed as Members of the Cabinet
- (b) the name of the Member whom he/she has appointed as Deputy Leader
- (c) the portfolios or areas of responsibility of each Cabinet Member

#### **Leader / Cabinet Scheme of Delegations**

1.3 As soon as possible after the Annual Meeting of Council, the Leader shall deliver to the Chief Executive a Scheme of Executive Delegations, which shall set out:

- (a) the Portfolios or areas of responsibility of the respective Cabinet Members, including the Leader
- (b) those powers which have been reserved for decision of the Cabinet
- (c) the composition and terms of reference, including any delegated powers, of any Cabinet Committee
- (d) those powers which have been delegated to Cabinet Members, either generically or to individual Cabinet Members, including any restrictions on such powers

- (e) the names of any Members who have been appointed by the Leader / Cabinet to any Joint Committees, and those powers which have been delegated to Area Committees and/or Joint Committees
  - (f) those powers which have been delegated to Officers
- 1.4 Upon receipt of this Scheme or Delegations, the Chief Executive shall cause this Scheme of Delegations to be included in the Constitution and shall provide a copy thereof to each Member.
- 1.5 For the avoidance of doubt the Council has adopted the strong leader model and decisions which fall during recess or are required urgently may be made by the Leader subject to compliance with the Access to Information Rules. The Leader has presently delegated functions to Portfolio Holders to the extent necessary to permit collective decision-making by Cabinet. In the event of there being no Leader, Deputy Leader or Cabinet Members, executive functions shall in the interim be carried out by the Chief Executive subject to the Access to Information Rules.
- 1.6 Nothing above in Part 1 or Part 2 shall fetter or restrict the right of the Leader subject to compliance with the notification requirements in rules 2.1, 7.2 and 7.3 of Article 7 of Part 1 Chapter 3 of this constitution to:
- (a) Increase or decrease the size of the Cabinet or to appoint or dismiss members of the Cabinet (subject to a statutory maximum of 9 not including the Leader).
  - (b) To reorganise the portfolios.
  - (c) To reorganise or re-allocate the portfolio theme.
  - (d) To delegate executive functions or withdraw any delegation.
  - (e) To exercise all the executive rights contained in Article 7 of Chapter 3 of this constitution or the Leader / Cabinet Rules.
  - (f) To exercise any other executive rights set out in the constitution.

### **Sub-delegation of Executive Functions**

- 1.7 Where the Leader, Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive function, they may delegate further to joint bodies (in so far as this is permitted by law) or to an Officer.
- 1.8 Unless the Leader / Cabinet directs otherwise, a Committee of the Cabinet or a single Member of the Cabinet to whom functions have been delegated may delegate further to an Officer.
- 1.9 Where Executive functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them; or the Leader / Cabinet from reviewing decisions made in the discharge of those functions in accordance with the provisions of this Chapter.

- 1.10 All Executive functions not expressed to be within the remit of the Leader / Cabinet, a Committee of the Cabinet or a single Member of the Cabinet is deemed to be delegated to the Chief Executive.
- 1.11 The Leader / Cabinet may appoint such further Committees during the year as they think fit, notifying the Chief Executive as soon as possible.

## **2. Leader / Cabinet Meetings**

### **Dates, time and place**

- 2.1 Ordinary meetings of the Leader / Cabinet will take place in accordance with a programme decided by the Leader. In order to enable the Leader / Cabinet properly to discharge its functions, particularly in relation to service performance and financial monitoring, the Leader / Cabinet shall meet not less than ten times a year.
- 2.2 Meetings of the Leader / Cabinet shall take place at 7pm in the Council Offices at Grays unless the Leader otherwise determines.
- 2.3 The Leader may direct the Chief Executive to call a meeting of the Leader / Cabinet at any time. The summons to that meeting shall set out the business to be considered
- 2.4 Where the Chief Executive, the Chief Finance Officer or the Monitoring Officer is of the opinion that a meeting of the Leader / Cabinet needs to be called to consider a matter that requires a decision for reasons related to the effective discharge of the authority's functions, finance, legality or probity, they may call a meeting of the Leader / Cabinet.
- 2.5 Subject to compliance with Rule 2.1 above the Leader may cancel any meeting of the Leader / Cabinet, other than one convened under Rule 2.4 above.

### **Summoning of Meetings**

- 2.6 Meetings of the Leader / Cabinet shall be summoned by the issue of a summons and agenda by the Chief Executive, which agenda shall be accompanied by such reports as are available at the time of issue of the summons and the minutes of the previous meeting.
- 2.7 The Summons and agenda shall be issued to the Leader / all Members of the Cabinet and be available for public inspection at least 5 clear working days in advance of the meeting, except where, for exceptional reason, the meeting is summoned on less than 5 clear working days' notice.

### **Public or private meetings of the Leader / Cabinet**

- 2.8 All Leader / Cabinet meetings will be held in public except:
  - (a) when the Leader / Cabinet has resolved to exclude the press and public from all or part of a meeting in accordance with the Access to Information Rules
  - (b) when the business of the Leader / Cabinet comprises receiving a briefing on a matter and no executive decision is to be taken on the matter within the next 28 days, or

- (c) in circumstances to which Rules 2.38 to 2.40 refer

### **Order of Business**

- 2.9 The order of business for each meeting of Leader / Cabinet shall be set out in the agenda for that meeting and shall be as follows:
- (a) Apologies for absence from Members
  - (b) Declarations of interest by Members and Officers
  - (c) Receive for information the minutes of the previous meeting of Leader / Cabinet and of Cabinet Committees, and decision statements of decisions by individual Cabinet Members
  - (d) Statements by the Leader
  - (e) To receive petitions
  - (f) The Leader and Cabinet Members to respond to questions from Members
  - (g) Matters referred to the Leader / Cabinet for re-consideration by an Overview and Scrutiny Committee
  - (h) Matters referred to the Leader / Cabinet for consideration by Council, a Committee or Sub-Committee of the Council, and Area Committee or Joint Committee
  - (i) Consideration of business set out in the agenda for the meeting, comprising:
    - Reports from the Leader
    - Reports from Cabinet Committees
    - Reports from Cabinet Members
    - Reports from Statutory Chief Officer/Directors
    - Other reports from Officers
  - (j) To receive reports from Cabinet Members and Officers attending as the authority's representatives on outside bodies about the business of joint arrangements, boards and partnership bodies and external organisations
  - (k) Urgent items of business with the consent of the Leader
  - (l) Briefing on policy, Budget and other issues prior to making decisions on them
- 2.10 Any of the persons listed at Rule 2.9 (i) may require the Chief Executive to place an item of business on the agenda for the next convenient meeting of the Leader / Cabinet. Other Officers may request the Chief Executive to place an item of business on the agenda for the next convenient meeting of Cabinet.

- 2.11 No item of business shall be considered under agenda items 2.9 (g) to (k) except upon a written report from the person placing the item on the agenda or an Officer.
- 2.12 The order of business may be varied by the Leader.

**Reports to Leader / Cabinet, Cabinet Committees and Individual Cabinet Members**

- 2.13 In accordance with these Rules, any written report shall set out:
- (a) who the decision-taker will be
  - (b) the matter to be determined
  - (c) the electoral wards within the authority's area which are particularly affected by the matter
  - (d) whether the report contains confidential or exempt information, or the consideration thereof by the decision-taker is likely to involve the disclosure of confidential or exempt information, and therefore whether the report should be disclosed to press and public, or the decision-taker should exclude press and public before considering the matter
  - (e) a summary of the matter setting out all the material facts upon which the decision will be based
  - (f) any legislative constraints on the decision
  - (g) any relevant provisions from the Policy Framework
  - (h) any relevant policies of partner organisations
  - (i) any relevant national or regional policy
  - (j) the main options available to the decision-taker
  - (k) the staffing and financial implications of any options to be considered
  - (l) any consultations undertaken and a summary of the responses received
  - (m) the implications of the proposed decision on the authority and the authority's services
  - (n) whether that proposed decision is contrary to the Policy Framework or contrary to or not wholly in accordance with the approved Budget
  - (o) a recommendation setting out the proposed decision and the reasons for that recommendation
  - (p) the date, time and place where the decision is to be taken
  - (q) a list of background papers which have informed the writing of the report and their location on the Council's website

- 2.14 A report submitted by or on behalf of Leader / Cabinet Member shall clearly distinguish (where relevant) between the Officer advice upon which the report is based and the policy and political considerations upon which the Leader / Cabinet Member proposes that the decision be based.

### **Quorum**

- 2.15 The quorum for a meeting of the Leader will consist of the Leader, the quorum for a meeting of Cabinet shall be one third of the members currently appointed to Cabinet by the Leader including either the Leader or Deputy Leader. If the Leader / Cabinet appoints a Cabinet Committee, it shall at the same time determine the quorum of that Committee.

### **Completion of Business**

- 2.16 If the business of the meeting has not been concluded by two and a half hours after its start, the person presiding must interrupt the meeting. The person presiding will then and without debate take a vote as to whether to continue with the meeting. Unless a majority of Members vote to continue with the meeting, the meeting shall be adjourned and any remaining business will be considered at the next scheduled Cabinet meeting.

### **Person presiding**

- 2.17 The Leader shall preside at meetings of the Leader / Cabinet. Where the Leader is absent or otherwise unable to act in respect of any meeting or part of a meeting, the Deputy Leader shall preside and shall exercise all the powers of the Leader under these Rules. Executive decisions will be taken at a meeting convened in accordance with the Access to Information Rules.

### **Voting**

- 2.18 Other than set out in Rule 2.19 below, any matter to be determined by Leader / Cabinet shall be determined by a vote of the majority of Cabinet Members present and voting at the meeting. In the event of an equality of votes, the Leader shall have a second or casting vote.
- 2.19 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 require that immediately after any vote relating to the budget or council tax is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. A recorded vote will therefore be taken on any budget or council tax decision and will follow the procedure set out below.
- (a) The Leader shall put the motion and the Chief Executive shall call out the names of Members and record their votes or abstentions
  - (b) The Leader shall declare the result of the vote and the vote of each Member shall be recorded in the minutes
- 2.20 Any Member of the Leader / Cabinet may request that the votes of each Member of Cabinet, or that their individual vote, be recorded in the minutes thereof.

### **Rights of Audience**

- 2.21 Subject as below, the following persons shall have a right of audience at Leader / Cabinet Meetings:
- (a) All Members of the Cabinet
  - (b) Statutory Chief Officer/Directors
  - (c) Other Officers in presenting reports
  - (d) Other Members
  - (e) Members of the public in presenting petitions
- 2.22 The rights of audience set out under Rule 2.21 shall not apply where the Leader / Cabinet has resolved to exclude press and public from the relevant meeting or part of the meeting.
- 2.23 The Leader shall be responsible for the effective conduct of the business of Leader / Cabinet and shall, at his/her discretion, limit or exclude the time available for any persons or groups of persons to speak on any item of business.

### **Petitions**

- 2.24 A petition organiser may request the opportunity to present a petition to Leader / Cabinet. A petition must:
- (a) contain at least 10 signatures of registered local government electors for the administrative area of Thurrock
  - (b) identify a petition organiser
  - (c) relate to a matter for which the Leader / Cabinet has responsibility and which affects the authority or its area
  - (d) not, in the opinion of the Monitoring Officer, be trivial, defamatory, offensive, be substantially the same as a petition which has been considered under these Rules within the previous 12 months, name or clearly identify an employee of the authority, or involve the disclosure of confidential or exempt information
- 2.25 A petition may only be presented to Leader / Cabinet when it has been submitted to the Monitoring Officer at least 10 working days before an ordinary meeting of Leader / Cabinet or an extraordinary meeting of the Leader / Cabinet at which the subject matter of the petition is to be considered.
- 2.26 Petitions may be presented to the Leader / Cabinet in accordance with the authority's Petition Scheme by the petition organiser, by another signatory of the petition authorised by the petition organiser or by a Member on behalf of the petition organiser.
- 2.27 Where the Monitoring Officer is of the opinion that the subject matter of the petition relates to a matter which is or will shortly be the subject of statutory or non-statutory consultation by the authority or is to be reported to a forthcoming meeting of the Leader / Cabinet, he/she may elect not to report the petition to Leader / Cabinet directly but to include the

petition in the responses to that consultation for consideration in the ordinary determination of that matter.

- 2.28 Any Member or member of the public presenting a petition shall be entitled to address the Leader / Cabinet on the matter which is the subject of the petition for up to two minutes. Unless the petition relates to a matter which is to be determined by Leader / Cabinet, it shall then be referred to the relevant Cabinet Committee, Cabinet Member or Officer, as appropriate, without debate.
- 2.29 Where a petition is referred to a Cabinet Member or a Committee, the Monitoring Officer shall advise the petition organiser accordingly. The petition shall be considered by the Cabinet Committee, Cabinet Member or Committee at their next convenient meeting or occasion, and the relevant Portfolio Holder shall as soon as possible after such consideration notify the petition organiser in writing of what action the authority has taken or is taking on the petition.

### **Members' Questions**

- 2.30 Any Member may submit a maximum of two questions for the next ordinary meeting of Leader / Cabinet addressed to the Leader or a Member of the Cabinet, by delivering them in writing to the Monitoring Officer, to be received by Democratic Services by midday two working days prior to a meeting of the Leader / Cabinet (for example, as the Cabinet usually meets on a Wednesday, the deadline for receipt of questions will be midday on the Monday before the day of the meeting). The question must relate to an item on the agenda. A question must relate to a single proposition and may not contain more than one part.
- 2.31 The Monitoring Officer shall copy the question to the person to whom it is addressed and place it on the agenda for the next meeting of Leader / Cabinet unless, in his/her opinion:
- (a) the request does not comply with the requirements of Rule 2.30
  - (b) the question is defamatory of an individual, offensive, discloses confidential or exempt information, or otherwise infringes the proper conduct of local government; or
  - (c) the question is substantially the same as a question which has been previously been received and answered within the past twelve months, and there has been no significant and relevant change of circumstances since the previous question was answered.
- 2.32 The Monitoring Officer shall place the questions on the agenda in the order that they have been received. Where the Monitoring Officer considers that the question or the answer is likely to disclose confidential or exempt information, he/she shall place the question on the exempt part of the agenda.
- 2.33 The relevant Cabinet Member shall provide a verbal answer to the question (which may include a promise to provide a more detailed answer in writing). Where the Member who submitted the question is not present, the relevant Cabinet Member may provide a written response as an alternative to a verbal response.



- 2.34 Where the Member who submitted the question is present, they may ask one supplementary question arising directly out of the initial question or answer, without notice, and the person who answered the initial question shall respond to the supplementary question.
- 2.35 The person who submitted the original question may request clarification of any answer which they have received.
- 2.36 The time limit for each question under this Rule at any meeting (including supplementary question and response, and any clarification) shall be 5 minutes.

#### **Disturbance at meetings by Members**

- 2.37 If at any meeting any Member of the Leader / Cabinet, in the opinion of the Leader commits an act of misconduct by persistently disregarding a ruling or behaving improperly or offensively or unreasonably obstructing the business of the Leader / Cabinet, the Leader may move that the Member named be not further heard.
- 2.38 If a Member so named continues the act of misconduct after a motion under the foregoing paragraph has been carried, the Leader shall either:
- (a) move 'that the Member(s) named do leave the meeting', in which case that motion shall be put and determined without seconding or discussion; or
  - (b) adjourn the meeting for such period as the Leader may deem expedient

#### **Disturbance by Public (including Members who are not Cabinet Members)**

- 2.39 The Leader shall warn any member of the public who interrupts the proceedings that they may be excluded from the meeting if the interruption continues.
- 2.40 If that person continues the interruption, the Leader may order the removal of that person from the meeting.

#### **General disturbance**

- 2.41 In the event of a general disturbance, the Leader may adjourn the meeting for such period or to seek other venue as deemed expedient.

#### **Admission to and reporting of meetings**

- 2.42 The Openness of Local Government Bodies Regulations 2014, allow any person to attend and report on meetings, or those parts of meetings, that are open to the public using any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities. "Reporting" is defined in the Regulations as:
- (a) Filming, photographing or making an audio recording of proceedings at a meeting
  - (b) Using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later

- (c) Reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later to persons not present

2.43 If, at any time during the meeting, the Chair feels that filming, recording, reporting or photography is disrupting proceedings, the provisions of Rules 2.39, 2.40 and 2.41 will apply.

2.44 In any instance where the press and public have been excluded from the meeting in accordance with the provisions set out in Chapter 8 of this Constitution, the Council will not allow reporting on the meeting using methods which:

- (a) can be used without that person's presence at the meeting
- (b) enable persons not present at the meeting to see or hear the proceedings at the meeting as it takes place or later

### **Minutes**

2.45 As soon as practicable after the meeting, the Chief Executive shall produce a minute or record of the proceedings of the Leader / Cabinet, which shall include:

- (a) The names of the Members present at the meeting
- (b) Any declarations of interest by Members and Officers and, in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service
- (c) A statement as to whether any decision was a "Key Decision"
- (d) Confirmation as to whether any proposed Key Decision had been published in the Forward Plan or notified to the Chair of the relevant Overview and Scrutiny Committee, or made with the consent of the Chair of the relevant Overview and Scrutiny Committee in advance of the meeting
- (e) Any options which were considered and rejected at the meeting
- (f) A record of all motions, including amendments, which were put to the meeting
- (g) A record of all decisions taken at the meeting, including the reasons for the decisions taken
- (h) A statement of whether the Leader / Cabinet has determined that the implementation of any decision is urgent, and the reasons for such urgency

2.46 That record shall be signed by the Leader as a correct record as soon as practicable after the meeting, and shall be reported to the next meeting of Leader / Cabinet for information only.

### **3. Meetings of Cabinet Committees**

#### **Application of Leader / Cabinet Procedure Rules**

- 3.1 The Rules set out in this part of the Constitution shall apply equally to meetings of Cabinet Committees, save that:
- (a) references to Leader / Cabinet shall be taken as references to the Cabinet Committee
  - (b) References to the Leader shall be taken as references to the Chair of the Committee (save where the context otherwise requires)
  - (c) The order of business for the Committee shall exclude items in Rule 2.9 (e), (f) and (g)

### **4. Decisions by Individual Cabinet Members**

#### **Application of Leader / Cabinet Procedure Rules**

- 4.1 The Cabinet Procedure Rules shall apply to decisions of individual Cabinet Members where this option is adopted subject to the following exceptions:
- (a) Except in cases of genuine urgency, individual Cabinet Members shall take decisions only at a date, time and place set out in the summons for a meeting between the Cabinet Member and the Chief Executive, at which meeting the Chief Executive can record the decisions of the Cabinet Member
  - (b) References to the meeting shall be taken as references to that meeting between the Cabinet Member and the Chief Executive
  - (c) In cases of genuine urgency, the Cabinet Member shall seek as far as practicable to consult appropriate Officers before taking the decision, and shall notify the Chief Executive of the decision as soon as possible after taking the decision, providing the Chief Executive with:
    - The date, time and place at which the decision was taken
    - The names of the Members present when the decision was taken
    - Any personal interest which the Cabinet Member had in the decision
    - Any declarations of interest by Members who were present when the decision was taken

Note: a Cabinet Member with a disclosable pecuniary interest should not be present when a Cabinet Member takes a decision except where the Member has been granted a dispensation to speak and or vote in accordance with the Code of Conduct for Members

    - A statement of any Members or Officers whom the Cabinet Member consulted before taking the decision

- A statement as to whether any decision was a "Key Decision"
- Confirmation as to whether any proposed Key Decision had been published in the Forward Plan or notified to the Chair of the relevant Overview and Scrutiny Committee, or made with the consent of the Chair of the relevant Overview and Scrutiny Committee in advance of the meeting
- A copy of any documents which the Cabinet Member relied upon in coming to the decision
- Any options which were considered and rejected at the meeting
- A statement of all decisions taken by the Cabinet Member
- A statement of whether the Cabinet Member has determined that the implementation of any decision is urgent, and the reasons for such urgency

4.2 That record shall be signed by the Chief Executive or by the Cabinet Member as a correct record as soon as practicable after the meeting, and shall be reported to the next meeting of Cabinet for information only.

## **5. Implementing Executive Decisions**

5.1 In order to allow for Call-In, no key decision shall be implemented until 5 working days after the decision has been published, subject to Rule 5.3 below. The Leader's decisions as to the form and composition of Cabinet and the appointment of a Deputy Leader are at his or her discretion and cannot be called in under the Scrutiny Rules.

5.2 Where a request for a Call-In is received within 5 working days of the decision being published, the decision shall not be implemented until the relevant Overview and Scrutiny Committee has resolved not to call the decision in or the Decision-taker has reconsidered the decision in the light of any recommendation from the relevant Overview and Scrutiny Committee.

5.3 This deferment of implementation shall not apply where the decision-taker resolves that the implementation of the decision is urgent, in that delaying such implementation would give rise to an unacceptable risk of damage to the authority or its area or inhabitants, and such reason for urgency is recorded in the minutes of the decision.

## **6. Conflicts of Interest**

6.1 If the exercise of an Executive function has been delegated to an individual Cabinet Member or an Officer, and should that person have a disclosable pecuniary interest in the decision on the matter, then the function may be exercised in the first instance by the person or body by whom the delegation was made, or by such other Cabinet Member as may be appointed for this purpose by the Leader.

6.2 If the Leader and every Member of the Cabinet has a disclosable pecuniary interest in a matter as defined in the Council's Code of Conduct for Members, a decision in relation to that matter will be taken by the Chief Executive.

