

Part 3: Chapter 2

Executive Procedures and Role of Executive

1 Composition and role of Cabinet

- 1.1 The Leader will Chair the Cabinet and convene its meetings. The Leader may appoint a nominee when he or she is not available. In the absence of the Leader the Deputy Leader will act in the place of the Leader. In the absence of both the Leader and the Deputy Leader the Leader will arrange for another member of Cabinet to act in his place.
- 1.2 The responsibility and the role of the Cabinet encompasses the following areas:
 - 1.2.1 development of strategy and policies to implement the strategy (including preparation of the draft budget, together with plans and strategies for submission to the County Council where this is a statutory or constitutional requirement);
 - 1.2.2 political leadership;
 - 1.2.3 development of community partnerships;
 - 1.2.4 overall direction of the County Council;
- 1.3 These roles will be discharged by the Cabinet:
 - 1.3.1 proposing strategies and policies to the County Council, including any changes in the Policy Framework (Part 1 Chapter 4 of the Constitution), together with a budgetary framework for adoption annually, and during the financial year, as necessary. Changes to strategy will be proposed as necessary to reflect changing circumstances;
 - 1.3.2 focusing on continuous service improvement and taking decisions on all services within the overall strategic and budgetary framework set by the County Council;
 - 1.3.3 overseeing complaints handling and Ombudsman investigations where these are concerned with service delivery and are not concerned with Member behaviour.

- 1.4 Executive functions (portfolios) may be discharged by:
 - 1.4.1 Cabinet as a whole;
 - 1.4.2 A Committee of Cabinet;
 - 1.4.3 An individual member of Cabinet, or two or more members of Cabinet acting together;
 - 1.4.4 An officer authorised by Cabinet, a member or members of Cabinet or the Constitution;
 - 1.4.5 Other arrangements provided for by the Constitution or otherwise legally available, e.g., joint arrangements including arrangement with another local authority.

2. **Powers of Cabinet**

- 2.1 Cabinet will exercise all powers it is enabled to under the Constitution (to avoid any doubt, all the Executive Functions in Part 2, Chapter 3 of the Constitution shall be delegated to the Leader and the Executive Members who shall be entitled to take every necessary action to decide, discharge, or implement any Executive Functions or functions otherwise of the Executive in accordance with this Constitution or otherwise by law).
- 2.2 In the event that an Executive Member is unavailable, due to absence or illness, the Leader will depute another Executive Member to discharge the responsibilities of the unavailable Executive Member, or may discharge the responsibility himself or herself. In the absence of the Leader, the Deputy Leader will have power to depute another Executive Member to discharge the responsibilities of the unavailable Executive Member.
- 2.3 Where an Executive Member is unable to act owing to a declaration of, or conflict of interest, the Leader will depute another Executive Member (or himself or herself) to act in the place of that Executive Member. In the absence of the Leader, or where the Leader is unavailable to act owing to a declaration of, or conflict of interest, the Deputy Leader will act or depute another Executive Member to act. Any conflict of interest will be dealt with under the County Council's Members' Code of Conduct, set out in Part 4 Appendix A of the Constitution.
- 2.4 Cabinet is empowered by the County Council, by virtue of the adoption of the Constitution, to take any urgent decision necessary to ensure that:
 - 2.4.1 any Government timetable for action is met;

- 2.4.2 the County Council's position is not compromised or disadvantaged by any inability to act;
- 2.4.3 County Council strategies and policies are delivered;
- 2.5 Cabinet shall be under a general duty to ensure legal and financial priority in the exercise of all their functions and responsibilities, and to act at all times within:
 - 2.5.1 the terms of the Constitution approved by the County Council;
 - 2.5.2 Standing Orders and Codes of Conduct approved by the County Council;
 - 2.5.3 Any legislation which has the effect of governing the actions of the Council, the Cabinet, and any Committee of the County Council, including Select (Overview and Scrutiny) Committees.

In exercising their responsibilities, the Cabinet will be advised on matters of powers, and legal and financial probity by the Chief Executive, the Chief Financial Officer, and the Monitoring Officer.

3. Executive Decision Making Statutory Requirements

Statutory requirements in respect of Executive Decision making are set out in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 ('the Access to Information Regulations')

3.1 Key Decisions:

Key Decision means an Executive decision which is likely:

- 3.1.1 to result in the County Council incurring expenditure which is, or making savings which are, significant in terms of the County Council's budget for the service or function to which the decision relates. (The County Council has presently set a financial limit of £2,000,000); or
- 3.1.2 to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the County Council's administrative area.

In determining the meaning of significant, any guidance issued by the Secretary of State must be taken into account.

3.2 **Publicity in Connection with Key Decisions**

Where the Executive, an individual Executive Member or an Officer intends to make a Key Decision that decision must not be made unless a notice has been published at least 28 clear calendar days before the decision is made setting out

- 3.2.1 That a Key Decision is to be made on behalf of the County Council;
- 3.2.2 The matters in respect of which the decision is to be made;
- 3.2.3 Details of the decision maker;
- 3.2.4 The date on which, or the period within which, the Key Decision is to be made;
- 3.2.5 A list of the documents, submitted to the decision maker in relation to the matter in respect of which the Key Decision is to be made;
- 3.2.6 The address from which, subject to any prohibition or restriction on their disclosure copies of, or extracts from, any document listed is available;
- 3.2.7 That other documents relevant to those matters may be submitted to the decision maker and;
- 3.2.8 The procedure for requesting details of those documents (if any) as they become available.

Exempt information need not, however, be included on the notice, and confidential information cannot be included.

3.3 **Urgent Key Decisions**

Regulation 10 of the Access to Information Regulations applies in cases where the publication of a Key Decision notice is impracticable. In such cases, where a matter would be a Key Decision, the decision can only be made where:

- 3.3.1 The Proper Officer has informed the Chairman of the relevant Select (Overview and Scrutiny) Committee by notice in writing of the matter about which the decision is to be made; **and**
- 3.3.2 The Proper Officer has made a copy of such notice available for public inspection and published on the County Council's website; **and**

- 3.3.3 Five clear working days have elapsed since compliance with 3.3.1 and 3.3.2 above.
- 3.3.4 As soon as reasonably practicable after compliance with paragraphs 3.3.1, 3.3.2 and 3.3.3 the Proper Officer must make available for public inspection and publish a notice on the County Council's website setting out why compliance with Paragraph 3.2 is impracticable.

3.4 Special Urgency relating to Key Decisions

Where the date by which a Key Decision must be made makes compliance with Regulation 10 of the Access to Information Regulations impracticable, the decision can only be made where the Decision Maker has obtained agreement from:

- 3.4.1 The Chairman of the relevant Select (Overview and Scrutiny) Committee; **or**
- 3.4.2 If there is no such person, or if the Chairman of the relevant Select (Overview and Scrutiny) Committee is unable to act, then the Chairman of the County Council; **or**
- 3.4.3 In the absence of the Chairman of the County Council, the Vice-Chairman of the County Council

that the making of the decision is urgent and cannot reasonably be deferred and as soon as reasonably practicable after the decision maker has obtained the relevant agreement the Decision maker must make available for public inspection and publish a notice on the County Council's website setting out why making the decision is urgent and cannot reasonably be deferred

3.5 Leaders Report to County Council on Key Decisions of Special Urgency

The Leader will submit a quarterly Report to the County Council containing details of any Executive Key Decision taken during the preceding three months where the making of the decision was agreed as urgent under 3.4.

4. Decision Meetings and Individual Executive Member Decision Days

- 4.1 All Executive Meetings and Executive Decisions taken will be conducted in accordance with the Access to Information Regulations.

- 4.2 Decision Meetings of Cabinet and Committees of Cabinet Meetings will be held in public, except when dealing with confidential or exempt matters.
- 4.3 Decisions of Individual Executive Members will also be held in public, except when dealing with confidential or exempt matters.
- 4.4 For the purposes of Paragraph 4.3 above, 'public' shall include Decision Days of Individual Executive Members open to the public remotely or open to the public both in person or remotely by way of hybrid meeting room technology.
- 4.5 The quorum for a public Meeting of Cabinet shall be three, one of whom shall be the Leader or the Deputy Leader. The quorum for a public Meeting of a Committee of Cabinet shall also be three, one of whom shall be the Chairman or Vice-Chairman of the Committee or other Executive Member appointed by the Leader or Deputy Leader to act as Chairman.
- 4.6 Non-Executive Members will be allowed to speak at meetings of Cabinet and Committees of Cabinet and at Individual Executive Member Decision Days, following notice to the Chief Executive via Member.Services@hants.gov.uk, such notice to be received no later than noon on the working day immediately preceding such Meeting or Individual Executive Member Decision Day. NB For the avoidance of doubt, Opposition Group Spokespersons and Chairmen of Select Committees may make individual arrangements with Executive Members regarding speaking at Cabinet and Committees of Cabinet and at Individual Executive Member Decision Days'. Similarly for the avoidance of doubt, Members who have not previously indicated that they wish to speak after presentation of an Officers report may, with the consent of the Chairman, ask a question(s) on the report. Without prejudice to the above the Chairman may permit a non-Executive Member to speak where, in exceptional circumstances in the opinion of the Chairman, it has not been possible for the non-Executive Member to give the required notice.
- 4.7 Advance notice of public Meetings of the Executive and Individual Executive Member Decision days will be published in accordance with the requirements of Part 2 of the Access to Information Regulations, and in accordance with the Access to Information Procedure Rules in Chapter 4 of this Part. A link to Executive decision Reports will also be sent electronically to all Members. Decisions will be recorded by the Chief Executive and his staff, and records of decisions and Reports considered will be made public in accordance with the Access to Information Procedure Rules. Where a decision is taken this should be clear

on the face of the record of the decision, together with the implications of action arising from the decision, in order to facilitate effective scrutiny. Where the Executive is developing 'a position' (e.g., budget priorities for the coming year), a minute will record the general area under discussion, but Cabinet shall be not be obliged to disclose the detail of their discussion unless and until it results in either (a) a decision Cabinet is able to take and implement without further reference, except for scrutiny, or (b) a decision which must be presented to the County Council as a recommendation before any action can be taken.

- 4.8 Individual Executive Members will be spokespersons for their particular areas of responsibility.
- 4.9 Records of Executive decisions taken will be sent electronically to all Members of the County Council within five clear Working Days of the decision having been made.
- 4.10 The Leader may call additional Meetings of Cabinet at any time if it would be conducive to the conduct of business of the Executive to do so.
- 4.11 Individual Executive Members may also hold additional Individual Executive Member Decision Days at any time if they consider it would be conducive to the conduct of their Executive responsibilities to do so.

5. **Minutes of the Cabinet**

Meetings of Cabinet will be minuted by the Chief Executive, and when the Minutes are confirmed at the next following Meeting of Cabinet, they will be made public.

6. **Application of County Council Procedure Rules to Meetings of the Executive and to Individual Executive Member Decision Days.**

- 6.1 The following Standing Orders (as set out in Chapter 1 of this Part) shall apply, with any necessary modification, to Meetings of the Executive and to individual Executive Member Decision Days.

Standing Orders

- 8. Order of Business
- 9. Variation of Order of Business
- 10. Recordings, etc of proceedings
- 12. Deputations

22. Voting

30. Confidentiality of Proceedings

31. Inspection of Documents and Minutes

32. Misconduct of Members

33. Behaviour of Public

34. Adjourned Meetings

38. Suspension of Standing Orders

39. Withdrawal from Chamber or Room in cases of Disclosable
Pecuniary Interests