

Cabinet Procedure Rules

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Cabinet Procedure Rules

Rule No. 1 - The Cabinet

- 1.1 The Council's Cabinet comprises the Leader of the Council and a Cabinet of no fewer than two nor more than ten other elected Members of the Council. The method of appointment is set out in the Council Procedure Rules. The Cabinet is not a Committee of the Council.
- 1.2 The role of the Cabinet is to lead the preparation of the Council's policies and budget, to lead the community planning process and the attainment of best value, to implement the Council's policies and budget, to take in-year decisions on such matters and to be the focus for Local Strategic Partnerships.
- 1.3 In support of these roles the Cabinet will:-
 - (a) consider and manage the exercise of all the functions and powers of the Council which are by law to be the responsibility of the Executive.
 - (b) subject to paragraph 1.4 below:-
 - (i) consider and make recommendations to the full Council on any matters which it is the responsibility of the full Council to determine, (other than on matters which are by law not the responsibility of the Cabinet);
 - (ii) determine an annual programme for the preparation of reports and recommendations to the Council on such matters;
 - (iii) consult as the Cabinet thinks fit on any matter.
 - (c) consider and respond to reports and recommendations from any Overview and Scrutiny Panel.
- 1.4 The Cabinet will, before making any recommendation to the full Council on any matter under paragraph 1.3 (b) (ii) above first consult the appropriate Overview and Scrutiny Panel.
- 1.5 The Cabinet will as appropriate or necessary in the circumstances seek the advice of the Strategic Management Group on any matter and shall have regard to any advice so given.
- 1.6
 - (a) The Corporate Director and Monitoring Officer is designated Proper Officer for matters relating to the membership and meetings of the Cabinet, including summoning meetings of the Cabinet, circulating the Agenda and papers for such meetings, and recording every decision taken by the Cabinet. Such record shall include the reasons for such decision and any alternative options considered and rejected.
 - (b) The Corporate Director and Monitoring Officer as Proper Officer is responsible for undertaking the various notifications of decisions of the Cabinet required by this Constitution.

Rule No. 2 - Taking Executive Decisions

- 2.1 The Cabinet have no power to:-
- (a) take decisions on matters reserved to the full Council.
 - (b) take decisions on matters which may not by law be determined by the Cabinet,
 - (c) vary or delete any delegation set out in Tables 2, 3 and 4 of Part 3 to this Constitution.
- 2.2 Subject to the limitations set out in 2.1 above and 2.3 below, the Cabinet may collectively, or individually, (in accordance with the Protocol for Decision Making by an Individual Member) take any decision on any matter within the scope of the Cabinet's role set out in 1.3 (a) (b) (iii) and (c) above.
- 2.3 Any key decision will be taken collectively by the Cabinet.
- 2.4 The Cabinet may also take decisions on any matter which:-
- (a) has been referred to it by a Portfolio Holder or any Member of the Strategic Management Group (whether or not the Member of the Strategic Management Group in question has delegated powers in respect of that matter); or
 - (b) is one which the Cabinet has specifically reserved for decision to itself.
- 2.5 The Cabinet may establish one or more Cabinet Sub-Committees for specified task and finish time-limited purposes. Such Sub-Committees shall have no delegated powers but shall report with recommendations to the Cabinet. The Leader of the Council shall appoint the Chair and Members of a Sub-Committee from amongst the Members of the Cabinet.
- 2.6
- (a) The Cabinet may delegate to an Officer any power or responsibility or function which it is in law the responsibility of the Cabinet to discharge and may add to vary, or delete, any delegation of such power responsibility or function.
 - (b) In respect of powers or functions or responsibilities which are the responsibility of the Cabinet, the Cabinet will after consultation with any Committees affected update the relevant delegations to Officers set out in this Constitution at not less than annual intervals and will report to the Council on any changes so made.
- 2.7 Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated those functions.

Rule No. 3 - Conflicts Of Interest

- 3.1 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.
- 3.2 If any Member of the Cabinet 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.
- 3.3 If the exercise of a Cabinet function has been delegated to a Sub-Committee 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 set out in the Council's Code of Conduct for Members or Officers in Part 5 of this Constitution.

Rule No. 4 - Cabinet Meetings - When And Where

- 4.1 The Cabinet will normally meet at least 12 times per year (approximately every 4 weeks) at times to be agreed by the Leader. The Cabinet shall meet at Moorlands House, Stockwell Street, Leek or at another location to be agreed by the Leader.
- 4.2 A special meeting of the Cabinet may be called at any time by the Leader of the Council or by 3 Members of the Cabinet on giving notice to the Proper Officer. The summons to the special meeting will set out the business to be considered and no other business shall be considered unless declared as urgent by the Leader of the Council.

Rule No. 5 - Meetings Of The Cabinet

All formal meetings of the Cabinet where decisions are taken will be held in public in accordance with the Access to Information Rules contained in Part 4 of the Constitution.

Rule No. 6 - Quorum

The quorum for a meeting of the Cabinet shall be 3 (including the Leader, or deputy in his/her absence, save where either or both have a conflict of interest in accordance with Rule 3).

Rule No. 7 - How Decisions Are To Be Taken By The Cabinet

- 7.1 Executive 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.
- 7.2 Executive decisions which have been delegated to an individual Portfolio Holder will be taken in accordance with the Protocol for Decision Making by an Individual Member attached at Appendix 'A'.

Rule No. 8 - How Cabinet Meetings Are Conducted

8.1 Presiding

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. If neither are present or either are prevented from chairing the meeting because of a conflict of interest in accordance with Rule 3, another Cabinet member will be appointed as Chair from those present at the meeting.

8.2 Attendance

(a) WARD MEMBERS

- (i) Any Member shall be entitled to attend any meeting of the Cabinet to speak on any matter under consideration at the meeting which affects his/her Ward uniquely from others.
- (ii) Other Members may speak on any matter under consideration with the consent of the Leader, subject to the provisions of the Access to Information Procedure Rules contained in Part 4 of the Constitution.

(b) OVERVIEW AND SCRUTINY PANEL MEMBERS

- (i) Members other than Cabinet Members may be invited to attend with the consent of the Leader, any meetings of the Cabinet, and its Sub-Committees when confidential business is under consideration.

- (ii) The Chair or Vice-Chair of the relevant Overview and Scrutiny Panel or in his/her absence another Member of the Panel shall be entitled to attend and speak (but not vote) at a meeting of the Cabinet when it considers that Overview and Scrutiny Panel's reference back of a called-in decision pursuant to Rule 18 of the Overview and Scrutiny Panel Procedure Rules.
- (c) **OFFICERS**
- (i) The Chief Executive, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the Chief Executive has been given reasonable notice that a meeting is to take place.
 - (ii) A private Cabinet meeting may only take place in the presence of the Monitoring Officer or his/her nominee with responsibility for recording and publishing the decisions.

8.3 Order Of Business

At each meeting of the Cabinet the following business will be conducted:-

- (a) consideration of the minutes of the last meeting;
- (b) urgent items of business
- (c) declarations of interest if any;
- (d) matters referred to the Cabinet (whether by an Overview and Scrutiny Panel or by the Council) for reconsideration by them in accordance with the provisions contained in the Overview and Scrutiny Panel Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (e) items referred to it by any Member;
- (f) consideration of reports from Overview and Scrutiny Panels; and
- (g) matters set out in the agenda for the meetings, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

8.4 Consultation

All reports to the Cabinet from any Member of the Cabinet 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 relevant Overview and Scrutiny Panels, 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.

8.5 Items on the Cabinet Agenda

- (a) The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, 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) 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. If he/she receives such a request the Proper Officer will comply.

- (c) The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet. However, if there are excessive items to consider, the Leader may, at his/her discretion, defer such items to a subsequent meeting.
- (d) There will be a standing item on the agenda of each meeting of the Cabinet for any matters referred by Overview and Scrutiny Panels.
- (e) Any Member of the Council may ask the Leader to put an item on the Agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be entitled to attend the meeting, whether or not it is a public meeting and will have a right of 'personal explanation' in accordance with Council Procedure Rule 14.23.
- (f) The Monitoring Officer or the Chief Finance 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 any two of the Head of Paid Service, Chief Finance Officer and 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 jointly 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.

8.6 **Absence of Procedure Rules**

In the absence of any specific or alternative Cabinet Procedure Rules, the Council or the Committees and Sub-Committees Procedure Rules as relevant will apply to Cabinet meetings.

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

PROTOCOL FOR DECISION MAKING BY AN INDIVIDUAL MEMBER

1. Under the Local Government Act 2000, the Cabinet may delegate any of its functions to an individual Member of the Cabinet.
2. Whenever the Cabinet decides to do this, whether as a standing arrangement or whether on an ad hoc basis as needed, the individual Member shall make decisions only in accordance with this protocol.
3. An individual Member exercising their decision-making power shall not make any decision which the Cabinet would not be able to make either under legislation or under the Council's Constitution. Broadly, this means no policy decision should be made or a decision which is not within budget, or a decision on a function which is reserved to the Council or its Committees, e.g. in relation to licensing or planning.
4. The individual Member must be careful not to be involved in making a decision in which he or she has an interest.
5. No decision shall be made except upon consideration by the Member of a written report in accordance with this protocol.
6. The written report shall set out:
 - the issue to be decided;
 - any publicity or consultation requirements (either before or after the decision is made) in respect of the decision, either under legislation or under Council policy or any which is considered appropriate;
 - the facts upon which any decision must be based;
 - any legislative requirements, including:
 - human rights issues, or
 - equal access issues
 - staffing and financial implications;
 - the outcome of any consultations undertaken;
 - any implications for any other areas of the Council's activities;
 - any relevant national or regional guidance;
 - any Council policy relating to the issue, including sustainability issues;
 - the Cabinet Portfolio within which the issue falls;
 - any wards which are particularly affected by the issue;

- the options that are available;
 - any professional recommendation that the Officer wishes to make.
7. The following Members/Officers shall be sent the report five clear working days before the Member makes the decision:
- the relevant Cabinet Member whose portfolio includes the matter under consideration;
 - the local Councillors in areas affected by the proposed decision;
 - the Chief Executive;
 - the Monitoring Officer;
 - the S.151 Officer;
8. Any of the above persons may make their written comments to the Member who is due to make the decision before the five days has expired, with a copy to the Officer who wrote the report.
9. The above procedure shall not apply where the decision being taken is urgent, i.e. where any delay would seriously prejudice the Council's or the public interest. The Chair of the relevant Overview and Scrutiny Panel or the Head of the Paid Service must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The record of the decision shall state the reasons(s) for urgency.
10. In respect of contracts:
- 10.1 The individual Member must ensure that the Council's Contract Procedure Rules and Financial Procedure Rules have been complied with. He or she must not make a decision in respect of the selection of contractors, acceptance of tenders or otherwise entering into a contract unless he or she has written notification from the Head of Legal and Democratic Services or the Corporate Director and Monitoring Officer that the above Procedure Rules have been complied with.
- 10.2 The individual Member must not sign any contract or in any way bind the Council, him or herself. The contract documentation must be prepared by or approved by the Head of Legal and Democratic Services and signed or sealed in accordance with the Council's Standing Orders.
11. An individual member must notify the Monitoring Officer of any decision he or she has made. This notification must be in writing confirming:
- what options have been considered;
 - the decision made;
 - the reasons for the decision.
12. The Monitoring Officer will arrange for the recording of the decision, options considered and the reasons.

13. The record of the decision will then be circulated to all Members.
14. No decision shall take effect until it has been recorded by the Monitoring Officer. The Monitoring Officer shall ensure that an Officer is designated as responsible for keeping up to date the full record of decisions by individual Members.

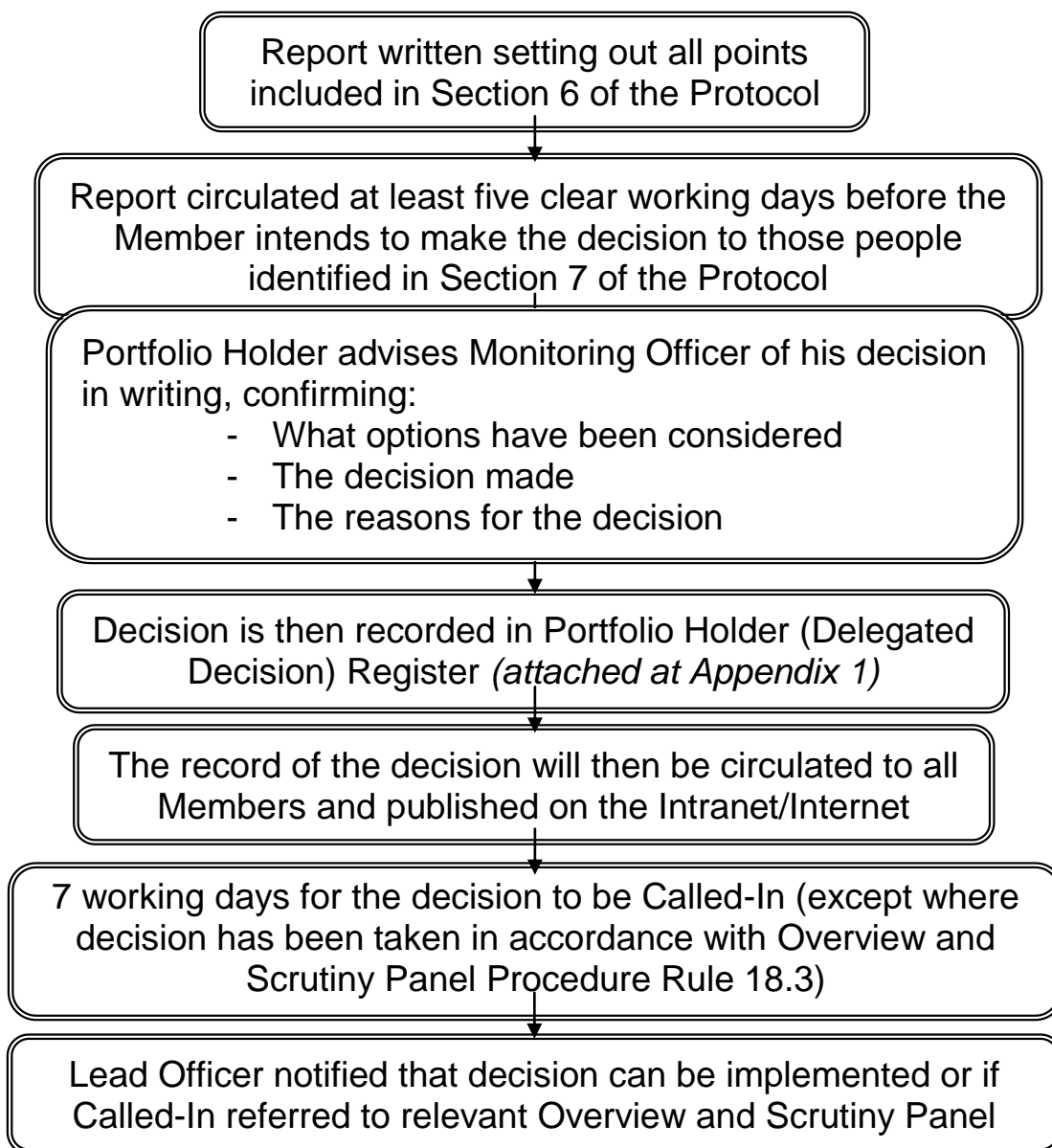
Principles of Delegation

15. In respect of matters delegated from Cabinet to individual Cabinet Members, the focus will be on policy issues within the policy and expenditure frameworks agreed by Council/Cabinet:-
 - Policy matters, internal to the service and required to provide guidance to officers to ensure significant policy decisions are implemented.
 - Details of policy matters delegated by Cabinet once principles have been agreed.
 - Expenditure items not specifically detailed within Service Plans but not sufficiently significant in scale to refer to Cabinet.
 - Budget virement items within a service where only one Portfolio Holder is involved.
 - Responses to consultation documents not referred to Cabinet.
 - In their absence, at the Leader's request, or where a prejudicial interest has been declared, to take decisions on any matter delegated to another Portfolio Holder.
 - It is the Portfolio Holder's responsibility to consult any other Member or Members of the Cabinet where the decision to be taken is of a cross-cutting nature.
 - Any Member of the Cabinet may refer any matter delegated to him or her to the Cabinet for a collective decision.
 - A written record will be kept of all individual Cabinet Member decisions, which will be published and circulated to all Members to enable scrutiny of the same.

Matters for Cabinet Members

16. Cabinet Members are authorised to make decisions required in the area of their individual Cabinet Portfolio. This does not include a key decision, as defined in the Constitution.
 - Cabinet Members may take policy, budget and expenditure decisions in accordance with the principles set out above.
 - Cabinet Members may take decisions on tenders and contracts in accordance with the provisions within the Council's Constitution relating to contracts.

- Cabinet Members may take decisions on virement, audit, debt, write-off and placing of orders in accordance with the Financial Procedure Rules.
- Cabinet Members may deal with petitions in accordance with Procedure Rules.
- Cabinet Members may take decisions concerning the acquisition or disposal of land.
- In liaison with the Leader of the Council, Cabinet Members may make decisions on Human Resources issues.
- Cases of voluntary early retirement, redundancy, efficiency retirement but not sufficiently significant in scale to refer to Cabinet.



Local Government Act 2000

**REGISTER OF DECISIONS MADE BY AN EXECUTIVE MEMBER UNDER
DELEGATED POWERS**

SUBJECT:

**PROCEDURE FOR DECISIONS MADE BY AN EXECUTIVE MEMBER ACTING
UNDER DELEGATED POWERS:**

- 1 The individual member taking the decision (or proper officer if instructed to do so) shall as soon as reasonably practical after he/she has made an executive decision under delegated powers, produce a written statement in respect of the decision which includes the following:
 - a. A record of the decision;
 - b. A record of the reasons for the decision;
 - c. Details of alternative options considered and rejected;
 - d. The reason for any urgency, if applicable;
 - e. A record of any conflict of interest declared by any executive member who is consulted by the member, in relation to the decision; and
 - f. A note of any dispensation granted (if a conflict of interest has been declared)

2. The Proper Officer, after an individual Member has made an executive decision, shall ensure that a copy of the records prepared in accordance with 1 (a-e) above and any report considered by the individual member (including background papers) relevant to the decision recorded are available for inspection by the public as soon as reasonably practicable at the offices of the authority. (subject to Reg.21 (Confidential Information) Access to Information Regulations 2000.

RECORD OF THE DECISION TAKEN:

STATEMENT OF THE REASONS FOR IT:

ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

A RECORD OF ANY CONFLICT OF INTEREST DECLARED:

A NOTE OF ANY DISPENSATION IF GRANTED:

LIST OF BACKGROUND PAPERS (BUT NOT INCLUDING THOSE WHICH DISCLOSE EXEMPT OR CONFIDENTIAL INFORMATION)

DATE THAT DECISION WAS TAKEN:

DATE OF PUBLICATION OF DECISION (To be completed By Member Services)

NAME OF DECISION TAKER:

AUTHORITY OF DECISION TAKER:

NAME OF PORTFOLIO (IF PORTFOLIO HOLDER):

Note: The decision shall not take effect until seven clear working days have elapsed from the date of publication of the decision.