

Procedure Rule 3 – Executive Functions

3.1 Decisions on Executive Functions

Discharge of Executive Functions

- 3.1.1 The Leader has responsibility for the discharge of all Executive functions and may delegate any/all of these functions to:
- i. The executive as a whole;
 - ii. A formally constituted Sub Committee of the Executive
 - iii. An individual Member of the Executive
 - iv. An individual Member of the Council (in the case of Ward Matters);
 - v. An Officer;
 - vi. An Area Committee
 - vii. Joint arrangements; or
 - viii. Another local authority

The Leader's Scheme of Delegation and Executive Functions

- 3.1.2 The Leader's Scheme of Delegation for Executive Functions, as set out in Part 3a of the Constitution, may only be agreed or amended by the Leader

Sub-delegation

- 3.1.3 Where the Leader, Executive, a Sub Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to an Area Committee, joint arrangements or an Officer

Discharge of delegated functions

- 3.1.4 Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

Consultation

- 3.1.5 All reports on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate

Decision making in Public or Private

- 3.1.6 Executive decisions which have been delegated to the Executive as a whole or to one of its Sub Committees will be taken at a meeting convened in accordance with Procedure Rule 1 – Access to Information, in Part 4 of this Constitution.
- 3.1.7 A decision on an Executive function must take place in public if:

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- i. A Key Decision as defined in Article 14 is to be taken;
- ii. It relates to a Key Decision which is likely to be discussed in the presence of an Officer and the decision is likely to be made within 28 days of the meeting;
- iii. A Key Decision will be made or a matter relating to a Key Decision is to be discussed in the presence of an officer in a case where a Procedure Rule 3.5.6 and 3.5.7 (general exception) notice in relation to that decision has been given

3.1.8 Unless the public are excluded under Procedure Rule 1.10

3.2 Public Notices prior to making Key Decisions

28 Day Notice

- 3.2.1 Separate public notices must be placed on the website and be displayed at the Town Hall indicating the Key Decisions that are to be transacted in Public or Private meetings of the Executive within a 28 clear day period before the date of the meeting
- 3.2.2 Notices specifying business to be considered at a Private meeting of the Executive (together with reasons) must allow for representations to be made in relation to the matter being taken in a private meeting. A further notice must provide a statement of the response to such representations.

5 Day Notice

- 3.2.3 A further notice must be provided indicating the Key Decisions to be transacted within a 5 day period (i.e. a 5 Day Notice) before the date of the meeting.

3.3 Access to Information

- 3.3.1 Procedure Rule 1 – Access to Information applies to an Executive decision taken by Members or an individual Member at a meeting held in public, or where a Key Decision has been taken by an Officer, unless Procedure Rules 3.5.6 and 3.5.7 (general exception) or Procedure Rule 3.5.8 (special urgency) apply

3.4 Record of Decisions

- 3.4.1 As soon as reasonably practicable after an Executive decision has been taken by Members or an individual Member, or a Key Decision has been taken by an Officer, the Proper Officer will produce a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Procedure Rules 1.5 and 1.7 to 1.9 (access to documents) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information.

3.5 Key Decisions

Definition of a Key Decision

- 3.5.1 The definition of a Key Decision is set out in Article 14 (Decision Making)

Who takes Key Decisions

3.5.2 Key Decisions can be taken by the Leader, Executive or one of its Sub Committees, Individual Executive Members or Officers with the appropriate delegated authority.

Procedure for taking a Key Decision in public

3.5.3 Subject to Procedure Rules 3.5.6 and 3.5.7 (general exception) and Procedure Rule 3.5.8 (special urgency), a Key Decision may not be taken unless:

- i. A 28 day notice has been published on the website in connection with the business to be transacted stating the purpose of the report; and
- ii. A 5 day notice has been published on the website in connection with the business to be transacted stating the purpose of the report; and
- iii. At least 5 clear working days have elapsed since the publication of the Agenda

Procedure for taking a Key Decision in Private

3.5.4 A 28 day notice will be published on the website indicating the nature and purpose of any Key Decision to be made in private within that forthcoming 28 day period.

28 Day Notice

3.5.5 The 28 day notice will describe the following particulars insofar as the information is available or might reasonably be obtained:

- i. The matter in respect of which a decision is to be made;
- ii. Where the decision maker is an individual his/her name and title, if any and where the decision maker is a body, its name and details of membership
- iii. The date on which the decision will be taken

Failure to give 28 Days Notice of Key Decisions (General Exception)

3.5.6 If a matter which is likely to be a Key Decision has not been included in the 28 Day Notice, then subject to Procedure Rule 3.5.8 (special urgency), the decision may still be taken provided that:

- i. The Proper Officer has informed the Chairman of the Overview and Scrutiny Committee in writing of the details of the decision to be made (or, if the Chairman is unable to act, each member of the Committee);
- ii. The Proper Officer gives notice of the details of the decision to be made and the reasons why it is impracticable to give 28 clear days notice; and
- iii. At least five clear days have elapsed between the notice given of the proposed business and the decision being taken

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3.5.7 A notice, giving the reasons for why it is impractical to comply with the 28 Day Notice must be published on the Council's website

Special Urgency

3.5.8 If by virtue of the date by which a decision must be taken Procedure Rule 3.5.6 and 3.5.7 (general exception) cannot be followed, the decision can still be taken if the decision-maker has received the permission of the Chairman of the Overview and Scrutiny Committee, or if she/he is unable to act, the Mayor or Deputy Mayor, and a notice has been published stating that a decision is urgent and the reasons why it cannot reasonably be deferred.

Report to Council

3.5.9 If the Overview and Scrutiny Committee thinks that a Key Decision has been taken which was note:

- i. Included in the 28 Day Notice; or
- ii. The subject of the general exception procedure; or
- iii. The subject of an agreement with the Overview and Scrutiny Committee Chairman or the Mayor or Deputy Mayor of the Council under Procedure Rule 3.5.8

3.5.10 The Committee may require the Leader (or Executive decision maker) to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested (by the Chairman or any 5 Members). Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

3.5.11 The Leader (or Executive decision maker) will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 9 days of receipt of the written notice, or the resolution of the Committee, then 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, and if the Leader (or Executive decision maker) is of the opinion that it was not a Key Decision the reasons for that opinion.

Quarterly Reports on Special Urgency Decisions

3.5.12 In any event the Leader (or Executive decision maker) will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Procedure Rule 3.5.8 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

3.6 Meetings

Notice of Meetings

3.6.1 All Members shall have Notice of Public and Private Meetings where Executive decisions will be taken.

Executive Meetings

3.6.2 Meetings of the Executive will be set by the Leader and included in the Schedule of Meetings. Additional meetings shall be agreed by the Leader, as necessary.

Meetings of the Executive Sub Committees shall be called as and when required subject to complying with 28 Day Notice etc.

Public or Private Meetings of the Executive

3.6.3 Meetings of the Executive will generally be held in public. Items will be considered in private meetings of the Executive only if they qualify under the grounds to exclude the Press and Public set out in Procedure Rule 1 – Access to Information and following the publication of the 28 Day and 5 Day Notices.

Quorum

3.6.4 The quorum for a meeting of the Executive shall be one third of the total number of Members of the Executive, or 3, whichever is the larger.

Quorum for Sub Committee meeting of 5 is 3 Members.

Executive Agenda

3.6.5 The following may require an item to be considered at the next available meeting of the Executive:

- i. The Leader
- ii. Any Executive Member
- iii. The Council
- iv. The Overview and Scrutiny Committee
- v. The Head of Paid Service, Monitoring Officer, and Chief Financial Officer

3.6.6 Any Non-Executive Member of the Council may ask the Leader to put an item on the Agenda of an Executive meeting and, if the Leader agrees, the item shall be included on the next Agenda.

Chairman

3.6.7 The Leader or in his/her absence the Deputy Leader will chair meetings of the Executive. If both Leader and Deputy Leader are absent then a person appointed by those Members of the Executive present shall chair the meeting.

3.6.8 The Conduct of the meeting shall be a matter for the Chairman.

3.6.9 When speaking a Member shall address the Chairman.

3.6.10 The ruling of the Chairman on the application of Procedure Rules or any proceedings of Executive meetings shall not be challenged.

Attendance at Meetings of the Executive

3.6.11 Meetings of the Executive will be open to all Councillors who may speak with the consent of the Leader (or person presiding, as appropriate)

Business of the Executive

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

1. Minutes of the last meeting;
2. Apologies for absence
3. Declarations of interest, if any;
4. Petitions
5. Matters referred to the Executive (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in Procedure Rule 5 – Overview and Scrutiny or Procedure Rule 6 – Policy Framework and Budget, set out in Part 4 of this Constitution
6. Consideration of reports from the Overview and Scrutiny Committee; and
7. Matters set out in the Agenda for the meeting, and which shall indicate which are Key Decisions and which are not in accordance with Procedure Rule 1 – Access to Information, set out in Part 4 of this Constitution

Voting

3.6.13 Voting shall be by a show of hands

3.6.14 A Member's vote for or against (or abstention) shall be recorded in the Minutes provided a request to do so is made by the Member immediately after the vote is taken.

3.6.15 In the case of an equality of votes the Chairman shall have a second or casting vote. The casting vote may be used whether or not the Chairman has already voted.

Petitions

3.6.16 The Executive will consider and deal with petitions in accordance with the Council's Petition Scheme

Disorderly Conduct

Members:

3.6.17 The Chairman shall warn a Member who behaves improperly.

3.6.18 If the Member continues the misconduct the Chairman may move that the Member be excluded from the meeting (in which case the Motion shall be put and determined without seconding or discussion)

3.6.19 If the Motion is approved the Member shall leave the room.

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Public:

- 3.6.20 The Chairman shall warn a member of the public who interrupts the proceedings at any meetings.
- 3.6.21 If the interruption continues the Chairman shall order removal of the person concerned from the meeting.
- 3.6.22 In the case of general disturbance the Chairman shall order the public gallery to be cleared and, if appropriate, adjourn the meeting.

Minutes

- 3.6.23 The Minutes of every Executive meeting shall be available to all Members for the next Meeting for confirmation and signature by the Chairman. Where this is impractical, owing to the short time between meetings, or where the next meeting is a Special Meeting, the Minutes may be presented to the following meeting.
- 3.6.24 No discussion shall take place upon the Minutes other than on their accuracy. If no point of accuracy is raised or if it is raised then as soon as it has been disposed of, the Chairman shall sign the Minutes.

Urgent Business

- 3.6.25 Subject to Procedure Rules 3.5.6 and 3.5.7 (general exception) and Procedure Rule 3.5.8 (special urgency), if an item is not included on the Agenda it shall not be discussed unless the Leader is of the opinion that, by reason of special circumstances, which shall be specified in the Minutes, it should be considered at the meeting as a matter of urgency. Items of urgent business must be in writing for circulation to Members present (and Press and public, as appropriate) but may be supplemented by an oral report. Any urgent business must also comply with the Special Urgency provisions set out in Procedure Rule 3.5.8 (special urgency).

Suspension of Executive Procedure Rules

- 3.6.26 Subject to statutory provisions, the Chairman may decide to suspend these rules at a meeting of the Executive or Committee of the Executive, provided one half of its Members are present.