

Part E – Executive Arrangements

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Introduction

The Executive is a group of Councillors made up of the Leader of the Council, who is chosen by the full Council, and up to 9 other Councillors, called Lead Members, who are appointed by the Leader.

Apart from specific functions listed as Council functions in legislation all other responsibilities rest with the Leader and the Executive. These are called “executive functions”.

A specific area of responsibility is called a Portfolio and where a Councillor is assigned that area of responsibility that Councillor is also called a Lead Member.

The dates of Executive meetings are set out on the Council’s website. Members of the public can attend or watch all Executive meetings in accordance with the Access to Information Procedure Rules at Part B of the Constitution.

This Part E of the Constitution sets out in detail which functions are executive functions, the rules which govern how the Executive makes decisions, and how meetings of the Executive are run.

These rules are written in formal language. If you have specific questions our Democratic Services Team will be happy to help you.

1. The Role of Executive

Functions

1.1 The Local Government Act 2000 provides that the functions of a local authority are the responsibility of its Executive (referred to in the Act as the "Executive") except for those which the law requires to be performed by the Council; always provided that such a decision is within the Council's Budget and Policy Framework.

1.2 The Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 is the main piece of legislation governing the functions of a local authority and it lists the different functions which are detailed in the Schedules to the Regulations and can be categorised as:

Schedule 1 Functions which must not be the responsibility of the Executive;

Schedule 2 Functions which may be the responsibility of the Executive or of the Council - these are known as "local choice" functions:

Schedule 3 Functions which may not be the sole responsibility of the Executive;

Schedule 4 Circumstances in which functions which would normally be the responsibility of the Executive, are not to be the responsibility of the Executive.

1.3 As such, the Council has the discretion to decide which of the functions that fall into Schedule 2 will be the responsibility of the Council (Council Functions) and which will be the responsibility of the Executive (Executive Functions). The Council decides which of the local choice functions will be Council Functions and which of the local choice functions will be Executive Functions.

1.4 There are some other pieces of legislation which provide that certain matters must be dealt with by the full Council. These include:

(a) setting the Annual Budget and Council Precept;

(b) agreeing the Council Plan;

- (c) approving the Council's Pay Policy Statement;
- (d) approving the Council's Investment Strategy.

Executive Functions

1.5 Except those Council functions listed at in Schedule 1 of the Regulations referred to in paragraph 1.2 above, the Council has decided that all other functions, including local choice functions, are to be executive functions.

1.6 Responsibility for executive functions rests with the Leader who will decide which functions he/she will perform personally, and which will be delegated to the Executive as a whole; to an Executive Sub-Committee; individual Lead Members or to Officers.

The Leader has retained the following responsibilities:-

- (a) To refer to Council for approval any proposed executive decision which is outside of the Council's Policy Framework or Budget, or the virement limits set by the Council.
- (b) To exercise any delegated executive decision-making responsibility including where a Lead Member wants to take a decision against officer advice, or where there is uncertainty as to who may take a decision.
- (c) In addition to any specific delegations to Lead Members and Senior Leadership Team Officers, to acquire land by agreement or, failing agreement, by compulsory purchase and to dispose of County Council land – see property purchase provisions 1 to 3 below.
- (d) To appoint any individual to an outside body or partnership or joint committee of two or more authorities where the appointments relate to executive functions.
- (e) *The determination of an appeal against any decision made by or on behalf of the authority in respect of Early Years Providers. (Local choice function)*

(f) *The appointment of any individual :*

(i) *to any office other than an office in which he/she is employed by the authority;*

(ii) *to any body other than:*

- *the authority*
- *a Joint Committee of two or more authorities; or*
- *any Committee or Sub-Committee of such a body, and the revocation of any such appointment*

(‘Local choice’ function for appointments falling under the responsibility of the Leader)

Property Purchase Provision 1 - The Leader can only acquire land after having first considered the Chief Finance Officer’s advice and recommendations on the value and for a sum no greater than the maximum (if any) recommended by the Chief Finance Officer.

Property Purchase Provision 2 - When acquiring land or disposing of land, the Leader will comply with the relevant general procedures laid down by the Council including for dealing with capital payments or capital receipts.

Property Purchase Provision 3 - The Leader shall not re-delegate his / her power to acquire land, except:-

- (a) where statute permits;
- (b) where the powers concern the compulsory acquisition of land or the acceptance of gifts of land for the creation or improvement of an existing County road - these powers can be delegated to a Sub-Committee comprising the Leader, Deputy Leader and one other Member of the Executive.

The Executive:

- (a) Makes recommendations to Council on the Policy Framework, except where the statutory responsibility for the submission of such recommendations rests with another body;
- (b) Recommends the Annual Budget and Precept to Full Council for approval;
- (c) Advises the Council on the economy, efficiency and effectiveness of its

activities and the need for new services and the necessity of existing ones;

- (d) Advises the Council on the overall organisation, co-ordination and management of the Council;
- (e) Advises the Council on its policy and response to international, national and regional initiatives;
- (f) Has responsibility for the overall allocation and control of the financial, staff and land resources of the Council and acts as the 'corporate client';
- (g) Receives the annual outturn reports;
- (h) Approves the Council's risk management strategy and policy statement;
- (i) Recommends the treasury management policy statement to Full Council for approval, on an annual basis;
- (j) Reviews policy and develops and agrees new policy (aside from policies within the Council's Policy Framework) as required, seeking where appropriate to involve scrutiny in the development of proposals;
- (k) Considers recommendations from Scrutiny Committees.

Functions for Lead Members and Officers are set out below and in the Officer Scheme of Delegation.

- 1.7 A decision on any delegated executive function may be referred to the whole Executive when: -
- 1.7.1 The Leader, an Executive Sub-Committee, Lead Member or Officer believes that due to the contentious or 'political' nature of the matter it should be considered and decided by the whole Executive;
 - 1.7.2 The Lead Member takes a different view of the proposal in question and feels unable to be associated with it; or
 - 1.7.3 The Lead Member or Officer believes that they are conflicted or may be accused of bias.

1.8 Under the provisions of the Localism Act 2011 a Lead Member cannot deal with any matter in which they have a "Disclosable Pecuniary Interest" and must take no action other than referring the matter on; usually via the Council's Monitoring Officer and Leader.

Executive Arrangements

1.9 The following parts of this Constitution should be read in conjunction with the Council's:-

- Executive Procedure Rules
- Access to Information Procedure Rules
- Joint Arrangements
- Scrutiny Arrangements

2. Executive Arrangements

The Role of Executive

2.1 The Executive will carry out all of the executive functions

Form and Composition

2.2 The Executive will consist of the Leader of the Council together with such number of elected Councillors of the Council not exceeding [9] as he/she may appoint to the Executive.

Leader of the Council

2.3 The Leader will be a Councillor elected by Council for such term, not exceeding the date of the next elections to the Council. The Leader will hold office until:

2.3.1 he/she resigns from the office; or

2.3.2 he/she dies;

- 2.3.3 he/ she is removed from office by resolution of the Council on receipt of a Notice of Motion in accordance with the requirements for Motions as set out in the Council Procedure Rules; or
- 2.3.4 he/she is removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer. A change in political control is a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council;
- 2.3.5 he/she is disqualified from being a Councillor;
- 2.3.6 should a situation arise where the Leader no longer holds office as mentioned above, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a councillor to the position of Leader;

Deputy Leader of the Council

- 2.5 The Leader following his or her election will appoint one of the Members of the Executive as his/her Deputy.
- 2.6 The Deputy Leader may not vary the arrangements made by the Leader or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:
 - 2.6.1 changes consequent upon the dismissal of a Leader during the period until the new Leader is elected;
- 2.7 The Deputy Leader shall be appointed by the Leader and shall hold office until:
 - 2.7.1 he/she resigns from office; or
 - 2.7.2 until the end of the Leader's term of office and the new Leader has been elected; or

- 2.7.3 he/she is no longer a Councillor; or
- 2.7.4 he/she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive
- 2.7.5 he/she is disqualified from being a Councillor;

Other Executive Members

Lead Members

- 2.8 Following his/her election, the Leader will appoint up to [9] further members of the Executive; one of whom will be the Deputy Leader.
- 2.9. Only councillors of Somerset Council may be appointed to the Executive. There may be no co-optees or substitutes for Lead Members. Neither the Chair nor Vice Chair of the Council may be appointed to the Executive, and Lead Members may not be members of the Scrutiny Committees.
- 2.10 Lead Members shall be appointed annually by the Leader and shall hold office until:
 - 2.10.1 the next annual meeting of the Council; or
 - 2.20.2 they resign from office; or
 - 2.20.3 they are no longer councillors; or
 - 2.20.4 they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

Proceedings of the Executive

- 2.11 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out below in this Constitution.

Responsibility for Functions

2.12 The Leader will determine which executive functions he/she will discharge personally, which shall be retained for decision by the Executive, which shall be allocated to individual Lead Members, and (subject to any statutory requirements and in accordance with the Councils Scheme of Delegation of Officers) which executive functions shall not be retained for decision by the Executive and, therefore, shall be discharged by Officers.

A Lead Member can convene, on an ad hoc basis, a small representative group of Members of the Council (i.e. cross-party) to assist in the consideration of particular issues or matters. These are not formal meetings as defined in the Code of Conduct and the Lead Member is responsible for all of the arrangements.

2.13 These responsibilities may be amended by the Leader on written notice to the Monitoring Officer.

Children's Services - Lead Member arrangements

2.14 In respect of Children's Services, the Leader shall designate a Lead Member as "Lead Member for Children's Services", in accordance with section 19(1), Children Act 2004. The Lead Member for Children's Services shall be responsible for the strategic direction of the Council's Children's Services and their effective overview and shall carry overall political responsibility for those services.

Associate Lead Members

2.15 The Leader may appoint non-Executive Members as Associate Lead Members (provided that the total number of Associate Lead Members does not exceed the number of Lead Members) to advise and assist Lead Members in the discharge of their duties within their portfolio(s).

An Associate Lead Member is not authorised to make any decision normally made by a Lead Member or to deputise for a Lead member at Executive. Associate Lead Members will:

- (a) Support Lead Members to provide clear political leadership both within and outside of the Council in order to help advance and deliver the Council's priorities and key outcomes
- (b) Focus on information gathering and understanding key policy / service delivery in their areas of responsibility
- (c) Assist with the development of options and policies for consideration by the Executive and relevant Lead Member taking into account national policies and local circumstances
- (d) Brief and make recommendations to Executive and their relevant Lead Members and others on relevant issues in relation to policy and strategy development, service improvement or changes and decision making.
- (e) Represent or deputise for their relevant Lead Member at meetings or events as necessary. NB (The term 'deputise' does not include authority to take formal decisions.)
- (f) Promote and support good governance of the Council and its business.
- (g) Keep other Members of Council informed about their activities,
- (h) Maintain effective working relationships with Senior Leadership Team officers and other Officers.
- (i) Create and maintain effective relationships with partners and organisations to deliver the Council's priorities
- (j) Be accountable to their relevant Lead Member, and ultimately the Leader of the Council, for the development and delivery of policies and strategies to meet the outcomes required by the Council and the Executive.
- (k) Be accountable to their relevant Lead Member for supporting the commissioning and delivery of services to meet the outcomes required by the Council and the Executive. This includes supporting the delivery of Council Plan priorities and Medium Term Financial Plan savings
- (l) Play a key role in supporting transformational programmes within their areas of responsibility
- (m) Play a key role in the delivery of specific projects within their areas of responsibility.

Where an Associate Lead Member is temporarily unable to perform their role e.g. due to illness, then the Leader is able to appoint a temporary Associate Lead Member, ensuring the Monitoring Officer is informed.

Scheme of Delegation to Executive Lead Members

- 2.16 Where executive functions are not reserved to the Council, to Executive or delegated to Officers, they are Lead Member matters in accordance with this scheme and according to their portfolios.
- 2.17 The Monitoring Officer, in consultation with the Leader, shall determine the appropriate Lead Member to deal with a matter in cases of uncertainty.
- 2.18 The following areas of responsibility are included in the matters which may be determined by the appropriate Lead Member:
- 2.18.1 to consider reports prepared by officers and to make any decisions in accordance with the requirements of this Constitution;
 - 2.18.2 to consider draft reports to the Executive with the relevant Director and/or other relevant senior Officer;
 - 2.18.3 to determine how expenditure on services should be undertaken within approved budgets;
 - 2.18.4 to agree annual reports;
 - 2.18.5 to develop and approve service plans of services, including future budget requirements;
 - 2.18.6 to monitor the budget and performance for particular services;
 - 2.18.7 to determine policies for particular services, which are consistent with the Policy Framework;
 - 2.18.8 to agree responses to consultation papers;
 - 2.18.9 to make payment of grants to outside bodies within the list approved by the Executive, except those which fall to the Executive itself to decide;

2.18.10 to approve decisions affecting a particular locality (i.e. which are not service-wide, Council-wide or otherwise corporate).

3. Executive Procedure Rules

Executive Decision Making

- 3.1 The Leader may decide how the Executive performs its executive functions which may include decisions being made by:
- 3.1.1 the Executive as a whole;
 - 3.1.2 an Executive Sub-Committee;
 - 3.1.3 one or more Lead Members individually or jointly
 - 3.1.4 an Officer (subject to the Scheme of Delegation to Officers);
 - 3.1.5 joint arrangements;
 - 3.1.6 another local authority.

The Leader's Delegation of Executive Functions

- 3.2 Each year the Leader will prepare a written record of the delegations of executive functions. The record of delegations will detail the executive functions which the Leader has delegated to the Executive, Executive Committees, specific Lead Members or Officers. The record of delegations will be presented to the Council at the Council's annual meeting and will be included into the Council's Scheme of Delegation which can be found at Part I of this Constitution. The record of executive functions delegations will include:-
- The names, contact details and electoral area of those councillors appointed to the Executive by the Leader;
- 3.2.1 the executive functions to be performed by the Executive;

- 3.2.2 the executive functions to be performed by a specific Lead Member (including any limitations on his / her authority);
- 3.2.3 the terms of reference and constitution of any Executive Committee the Leader has appointed, and the names of the Lead Members appointed by the Leader to serve on any Executive Committee;
- 3.2.4 the nature and extent of any executive function delegated to any joint committee or body or any other local authority along with the names of the Lead Members appointed to any Joint Committee for the coming year;
- 3.2.5 any changes to any of the delegations of Officers, the title of the Officer(s) to whom the delegation is made and any limits on their authority.

Sub-Delegations of Executive Functions

- 3.3 Unless the Council says otherwise, where the Executive or an individual Lead Member is responsible for performing an executive function, they may subdelegate its performance to an Officer.
- 3.4 Where an executive function has been sub-delegated to an Officer it may still be performed by the person or body who made the sub-delegation.

The Council's Scheme of Delegation of Executive Functions

- 3.5 The record of delegation of executive functions to Lead Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Lead Member, body or Executive Committee concerned. The notice must set out the extent of the amendment and whether it involves the withdrawal of a delegation from the Lead Member, body or Executive Committee concerned, or the Executive as a whole. Where the amendment concerns a change to the delegation to a joint Committee or

other joint working arrangement, the Monitoring Officer will present to the Council at its next meeting the amendments made by the Leader.

- 3.6 Where the Leader seeks to withdraw a delegation from an Executive Committee, notice to do so will be considered as having been given to the Committee concerned when the Leader has given the notice to the Chair of the Committee.

Conflicts of Interest

- 3.7 Where the Leader has a conflict of interest he/she must ensure that he/she does not influence the decision to be taken and that the decision is taken by a Lead Member who does not have such a conflict of interest.
- 3.8 If every Lead Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Director or senior Officer, or to seeking a dispensation to taking the decision but dispensations are not available in respect of single Lead Member decision making.
- 3.9 Where a decision is being taken regarding a service which is commissioned by a Lead Member from an external service provider, Lead Members must be mindful of potential conflicts of interest arising if they also sit on the board of directors or trustees, or are otherwise involved in the governance of the external provider. In such circumstances Lead Members should seek advice from the Monitoring Officer before agreeing to sit on such a board or governance structure.
- 3.10 If the performance of an executive function has been delegated to an individual Lead Member or Officer and a conflict of interest arises, in the first instance the executive function will be performed by the person or body by whom the delegation was made.

Executive Meetings

3.11 Executive Meetings are convened and conducted in accordance with the Access to Information Procedure Rules which can be found at Part B of this Constitution

Time and Place of Executive Meetings

3.12 The Executive will usually meet at least 10 times a year. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules at Part B. At least 5 working days before a meeting, the Monitoring Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such reports as are available.

Quorum for Executive Meetings

3.13 The quorum for any Executive meeting is 50% of the Executive Members. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chair, the business of the meeting will be adjourned to the next Executive meeting.

How the Executive Makes Decisions

3.14 Decisions as to the executive functions which have been delegated to the Executive will be decided by the Executive as a whole, and where a Key Decision is involved in accordance with the rules on Key Decision Making by the Executive and Individual Lead Members.

Chair of Executive Meetings

3.15 The Leader, or in his/ her absence the Deputy Leader, will chair Executive meetings. In the absence of both the Leader and the Deputy Leader, the Lead Members present at the meeting will choose from amongst themselves

someone to preside at the meeting. The person presiding may exercise any power or duty of the Chair.

Attendance at Executive Meetings

3.16 Members of the public and the press may attend all Executive Meetings in accordance with Council's Access to Information Procedure Rules, except:-

3.16.1 where, in accordance with Access to Information Procedure Rules, the Executive has decided that the public and the press should be excluded for all or part of the meeting because a matter to be considered is likely to result in the disclosure of exempt or confidential information.

3.16.2 where, in accordance with the Access to Information Procedure Rules, the person attending the meeting has been removed on the order of the Chair so as to prevent the disruption of the meeting.

3.17 Any non-Executive Member may attend an Executive Meeting as a member of the public in accordance with the Council's Access to Information Procedure Rules, except where excluded.

3.18 A non-Executive Member may only speak at an Executive Meeting if invited to do so by the Chair.

3.19 Officers are expected to attend Executive Meetings as follows:-

3.19.1 the Chief Executive and Executive Directors will attend Executive Meetings. Other Directors and Officers may attend Executive Meetings at the invitation of the Chief Executive and Executive Directors;

3.19.2 the Statutory Officers of the Council or their nominees may attend Executive Meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the Chair.

3.20 Lead Members may not appoint substitutes to attend Executive Meetings in their place. The absence of a Lead Member will not prevent the consideration

or making of decisions in respect of a matter. If a matter has been delegated to an absent Lead Member, it may be referred to the Executive as a whole for consideration and decisions to be made. An absent Lead Member may ask an Associate Lead Member to speak on his/her behalf, if permitted by the Chair but Associate Lead Members are not able to vote at Executive Meetings.

Order of Business of Executive Meetings

- 3.21 The following business will be conducted at each Executive Meeting:-
- 3.21.1 elect a person to preside if the Leader and Deputy Leaders are not present;
 - 3.21.2 approve the minutes of the last meeting;
 - 3.21.3 receive any apologies for absence;
 - 3.21.4 receive any declarations of interest;
 - 3.21.5 receive any statements from the Leader;
 - 3.21.6 at the Chair's discretion, the allocation of time for non-Executive Members to question Lead Members;
 - 3.21.7 consider petitions referred by full Council which relate to executive functions;
 - 3.21.8 consider other matters set out in the meeting agenda. The agenda will indicate any matters which are key decisions or matters which are exempt or confidential and require the exclusion of the public and / or press.

The Agenda for Executive Meetings

- 3.22 Except in the case of an urgent Executive meeting, the Monitoring Officer will deliver to Lead Members and make available to the public, the agenda for a Executive Meeting along with the summons setting out the date, time and place of the meeting at least 5 working days before the meeting takes place.

Urgent Executive Meetings

3.23 In accordance with the Access to Information Procedure Rules, an urgent Executive Meeting may be held without 5 working days' notice if an urgent matter requires consideration.

Consultation

3.24 All reports to the Executive from any Lead Member or an Officer which concern the Budget and Policy Framework or proposals which otherwise require a consultation, must include details as to the extent of the consultation and its outcome. The extent of a statutory consultation will be as required by the law; the extent of non-statutory consultations will be as appropriate.

Minutes of Executive Meetings

Signing the Minutes

3.25 The Chair will sign the minutes of the proceedings of meetings of the Executive at the next Executive meeting. The Chair will move that the minutes of the previous Executive meeting be signed as a correct record. The only part of the minutes which can be discussed is their accuracy.

No Requirement to Sign Minutes of Previous Meeting at an Urgent Executive Meeting

3.26 Where an urgent Executive meeting is called in accordance with Rule 3.23, there is no requirement for the minutes of the previous Executive Meeting to be signed at the urgent meeting.

Form of Minutes

3.27 Minutes will contain all motions and amendments in the form and order the Chair put them.

Appointment of Substitute Members at Executive Meetings

3.28 The substitution rules do not apply to Executive meetings.

Generally

Disturbance by the Public

3.29 In accordance with the Access to Information Procedure Rules, if a member of the public interrupts the proceedings of a Executive meeting, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room, or if there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

Exclusion of the Public

3.30 Members of the public and press may only be excluded from a Executive Meeting in accordance with the Access to Information Procedure Rules in Part B of this Constitution.

Questions

3.31 Any Councillor may ask the Executive a question on any matter in relation to which the Council has powers or duties, or which affects the administrative area of the Council.

Content of Questions

3.32 In the opinion of the Chair all questions must:

3.32.1 not be unreasonable;

3.32.2 contain no expressions of opinion;

3.32.3 relate to matters on which the Council has or may determine a policy;

3.32.4 not relate to questions of fact;

3.32.5 not require the disclosure of confidential or exempt information;

3.32.6 not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Councillor Questions

- 3.33 The number of questions asked and the total time allowed for consideration of such questions shall be determined by the Chair.
- 3.34 At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chair from the time when the first questioner started to speak, the Chair shall conclude the meeting or proceed to the next item of business.
- 3.35 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Executive.

Order of Questions

- 3.36 Questions from Councillors will be asked in the order determined by the Chair.

Response

- 3.37 An answer to a question may take the form of:
- 3.37.1 a direct verbal answer;
 - 3.37.2 where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - 3.37.3 where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 working days after the meeting.
 - 3.37.4 copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Suspension and Amendment of Executive Procedure Rules

Suspension

- 3.38 Where allowed by law all of these Executive Procedure Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Lead Members are present. Suspension can only be for a single item or the duration of the Executive Meeting.

Amendment

3.39 Any motion to add to, vary or revoke these Executive Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Executive Meeting.

Application of Executive Procedure Rules

3.40 All of the Executive Procedure Rules apply to Executive meetings and Executive sub-committees.

3.41 None of the Executive Procedure Rules apply to meetings of full Council, Committees or Sub-Committees.

Application of Access to Information Procedure Rules to Executive

3.42 The Access to Information Procedure Rules apply to the Executive. If the Executive meets to take a Key Decision, then it must comply with Access to Information Procedure Rules unless General Exception, Special Urgency or Major Emergencies rules apply. A Key Decision is defined in the glossary at Part A of this Constitution and as follows:

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- (a) Result in the Council incurring expenditure ** which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- (b) Are deemed significant in terms of their effect on communities living or working within the area of the Council.

**There is no definition in the legislation of the word 'significant' in (a) above. Therefore the Council has decided that the financial threshold at or above which a financial decision is significant (and a Key Decision) will be a total value of £500,000 for capital / revenue expenditure or savings. Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds once it is delegated to the school.

'Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Senior Leadership Team Officers,

Executive sub-Committees and Joint Committees with delegated powers from the Executive.

In the event of any doubt, the Monitoring Officer will determine whether a proposed decision is a Key Decision under the definitions set out above.

Non-Key Decisions: These are all 'executive' decisions which fall beneath the 'Key Decision' financial or geographical thresholds. 'Non-Key Decisions' can be taken by the Leader, the Executive collectively, jointly by two Lead Members, individual Lead Members, Executive Sub-Committees and Officers.

LEAD MEMBER AND OFFICER KEY AND LEAD MEMBER NON-KEY DECISIONS – CONSULTATION REQUIREMENTS

Before a Key Decision can be taken, the following must be consulted:

- (a) The relevant Lead Member(s), Associate Lead Member (where appropriate) and Senior Leadership Team Officer(s).
- (b) Any local Member whose electoral division is significantly affected. They must also be informed of any subsequent action / outcome.
- (c) The Chief Finance Officer and the Monitoring Officer and due regard given to their advice where there are likely to be financial, legal or standards implications.
- (d) The relevant Opposition Spokesperson / Leader
- (e) The Chair (or in their absence the Vice-Chair) of the relevant Scrutiny Committee.

Before a Lead Member Non-Key decision is taken, the consultation requirements at (a), (b) and (c) above must be met.

In addition, the relevant Opposition Spokesperson / Leader and the Chair (or Vice-Chair in their absence) of the relevant Scrutiny Committee must be informed of the decision.

Procedure Before Taking Key Decisions

3.43 Subject to General Exception (3.49 below), Special Urgency (3.50 below) or Major Emergencies (see 3.51 below) rules below, a Key Decision may not be taken unless:

3.43.1 at least 28 clear days' notice has been published in connection with the matter in question this Notice will be given by means of the Forward Plan;

3.43.2 at least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay;

3.43.3 where the decision is to be taken at a meeting of the Executive or a Sub-Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rule (notice of meetings).

The Forward Plan

3.44 The Leader will ensure that notice of all Key Decisions (by the Executive and by individual Lead Members) is given at least 28 clear days before they are due to be taken.

3.45 For ease the Council will list all Key Decisions once a month in a [Forward Plan] indicating which decisions the Executive anticipate that they will take during the next 4 months, together with any particularly significant Key Decisions which the Executive anticipates taking within the next 4 to 12 months. The Monitoring Officer may also include in the Forward Plan reference to such other decisions which are to be taken by the Council or any of its Committees or Sub-Committee or Officers as is considered appropriate.

3.46 The Forward Plan shall include the following information in respect of each key decision:

3.46.1 the matter in respect of which the decision is to be taken;

3.46.2 the person or body by whom the decision is to be taken;

3.46.3 the date on which, or the period within which, the decision is to be taken;

3.46.4 notice, if appropriate, that the Council intends to take a decision in private because the decision contains confidential or exempt information.

3.47 Where the Executive anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Executive may limit the entry in the Forward Plan to such information as may be disclosed without prejudice provided that notice under rules above has been given.

3.48 The Executive shall normally review and update the Forward Plan at least once in every calendar month and shall make arrangements for the revised Forward Plan to be made available on its website.

General Exception

3.49 Subject to Special Urgency or Major Emergencies rules below, if a matter which is likely to be a key decision has not been advertised for a minimum of 28 clear days on the Council's website, then the decision may still be taken if:

a the decision must be taken by such a date that it is impracticable to defer the decision until it has been possible for 28 clear days' notice to be given;

b the Monitoring Officer has informed the relevant Scrutiny Committee Chair in advance in writing and made copies of that notice available to the public at the offices of the Council; and on the Council's website; and

c at least five days have elapsed since the Proper Officer complied with (a) and (b) above.

Special Urgency

3.50 If the Major Emergencies rule (3.51 below) does not apply and, by virtue of the date by which a decision must be taken Procedure Rule 3.49 (general exception) cannot be followed and the five days' notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Leader and the Chair of the relevant Scrutiny Committee that the taking of the decision cannot be reasonably deferred. Notice in writing of the application to the Chair of the appropriate Scrutiny Committee must be published on the Council's website and copies made available to the public at the offices of the Council. If there is no Chair of a relevant Scrutiny Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice Chair will suffice.

Major Emergencies

3.51 In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Lead Member or, if appropriate, the Chief Executive or Director may take any immediate urgent decision required without consultation.

3.52 For the purposes of Rule 3.51, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.

Report to Council

When a Scrutiny Committee Can Require a Report

- 3.53 If a Scrutiny Committee believes that a decision has been taken which:
- 3.53.1 was not publicised to ensure that appropriate notice was given of the decision; or
 - 3.53.2 was the subject of the general exception procedure; or
 - 3.53.3 was the subject of an agreement with a relevant Scrutiny Committee Chair, or the Chair/Vice Chair of the Council under Rule 3.50 (special urgency); or
 - 3.53.4 was taken during a major emergency in accordance with Rule 3.51;
- the Scrutiny Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency. The power to require a report rests with the Scrutiny Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Scrutiny Committee when so requested by at least 50% of the members of the Scrutiny Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Committee.

Quarterly Reports on Special Urgency Decisions

- 3.54 In any event the Leader will submit quarterly reports to the Council on the Key Decisions taken in the circumstances set out in Rule 3.50 (special urgency) and/or Rule 3.51 (major emergencies) 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 and the reasons for urgency.

Record of Decisions

- 3.55 After any meeting of the Executive, the Monitoring Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include the date such a decision was made, a statement of the reasons for each

decision and, where appropriate, any alternative options considered and rejected at that meeting. The notice will also advise whether the Monitoring Officer has agreed to make a dispensation where a conflict of interest was declared before the decision was taken.

- 3.56 Where an Officer under delegated powers takes an executive decision, a written statement will be produced and published on the Council's website recording the reasons for this decision.

Executive Meetings Relating to Matters Which Are Not Key Decisions

- 3.57 The Executive have decided that meetings of Executive shall be held in public even when not relating to matters which are Key Decisions.
- 3.58 Where a Lead Member or Officer takes a decision other than a Key Decision he/she shall keep such notes and records of the decision as he/she considers appropriate in the circumstances and taking into account any requirements to produce such information to a Scrutiny Committee, if requested to do so.

Decisions by individual Lead Members or by Directors (or Relevant Senior Officers)

Reports Intended to be Taken into Account

- 3.59 Except as referred to in Rule 3.51 (major emergencies) where a Lead Member receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five days after the receipt of that report.

Provision of Copies of Reports to Scrutiny Committees

- 3.60 On giving of such a report as detailed in Rule 3.59 to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the relevant Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

Record of Individual Decision

3.61 As soon as reasonably practicable after any decision has been taken by a Lead Member or in the case of a Director or relevant senior Officer taking a delegated executive decision which would have been taken by a Lead Member or the Executive, the Proper Officer shall prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Procedure Rules 2.10 to 2.14 (inspection of documents after meetings) will also apply to the making of decisions by Lead Members, or to a decision taken by an Officer. This does not require the disclosure of exempt or confidential information.

Scrutiny Committees' Access to Documents

Rights to Copies

3.62 Subject to Rule 3.63 below, a relevant Scrutiny Committee (including any Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Executive or its Committees and which contains material relating to:

3.65.1 any business transacted at a meeting of the Executive or its Committees;

or

3.65.2 any decision taken by an individual Member of the Executive.

Limit on Rights

3.63 A Scrutiny Committee will not be entitled to scrutinise:

- a any document that is in draft form and not yet formally available for consideration by the Executive or an individual Lead Member except when this has been agreed by Executive or the Lead Member;
- b any part of a document that contains exempt or confidential information, unless the Monitoring Officer has determined that the information is relevant to an action or decision they are reviewing or scrutinising or is

relevant to a decision which they have given notice of their intention to scrutinise.

Additional Rights of Access for Councillors

Material Relating to Previous Business

3.64 Subject to the Access to Information Procedure Rules all Councillors will be entitled to inspect any document which is in the possession or under the control of the Executive and contains material relating to any business previously transacted, except to the extent that it contains any exempt information as described in Access to Information Procedure Rules in Part B of the Constitution.

Material Relating to Key Decisions

3.65 Subject to the Access to Information Procedure Rules five days before a meeting of the Council's Executive, all councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive or its Committees which relates to any key decision unless Rule 3.66 a. or b above applies.

Nature of Rights

3.66 These rights of a Councillor are additional to any other right he/she may have.