

PART 4.4

EXECUTIVE RULES

Note: Please refer to the [Practice Note](#) containing the current list of the persons referred to below as “Designated Officer”

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4.4.0 **INTRODUCTION**

In these Rules the Executive refers, depending on the context, to the Leader, the Cabinet, a committee of the Cabinet or to individual Cabinet Members. The arrangements for discharging Executive functions are set out in Part 3.3.

4.4.1 **COMPOSITION**

- a) The Cabinet shall comprise the Leader of the Council and between two and nine other councillors.
- b) Neither the Mayor nor Deputy Mayor may be a member of the Cabinet.
- c) Members of the Cabinet shall be appointed by the Leader. The Legal and Democratic Services Manager will ensure that an up-to-date version of the Scheme of Executive Delegation is available for Members, Officers and the public.

4.4.2 **LEADER AND DEPUTY LEADER OF THE COUNCIL**

Election of Leader

4.4.2.1 The Leader shall be elected in accordance with Council Rules 4.1.2 to 4.1.5 in Part 4.1 of the Constitution.

Appointment of Deputy Leader

4.4.2.2 The Deputy Leader will be a member of the Cabinet and shall be appointed and may be dismissed, by the Leader. In the absence of the Leader, the Deputy Leader shall assume all of the responsibilities of that post.

4.4.3 **NOMINATION OF DEPUTIES TO CABINET MEMBERS**

4.4.3.1 The Leader may appoint Cabinet Deputies with the roles and responsibilities set out in Article 2.7.4.

4.4.3.2 In the absence of a Cabinet member responsibility for a post will pass to the Leader.

4.4.3.3 Where the Leader is unable to perform the duties, responsibility for them shall pass to the Deputy Leader.

4.4.4 DELEGATION OF FUNCTIONS

4.4.4.1 The Leader may, in accordance with Part 4.1.1.13, and through the Scheme of Executive Delegation in Part 3.3.2, arrange for any Executive function to be carried out by: -

- a) the Cabinet,
- b) a committee of the Cabinet,
- c) an officer,
- d) joint arrangements with another local authority, or
- e) another local authority.

4.4.4.2 Where Executive functions have been delegated, the person or body making the delegation may still carry out the functions delegated.

4.4.4.3 Any Executive functions delegated under these Rules shall be included in Part 3.3 of the Constitution (Responsibility for Functions).

4.4.4.4 In establishing a committee the Leader must specify either that it is: -

- a) an advisory body to the Leader or Cabinet with no executive decision-making powers; or
- b) a body that has full delegated powers to take decisions on matters for which it is responsible.

4.4.5 MEETINGS OF THE CABINET AND COMMITTEES OF CABINET

Conduct of meetings

4.4.5.1 Meetings of the Cabinet will normally be held at the Civic Centre, Chelmsford but, with the agreement of the Leader, may be held at other locations in the City.

Meetings of the Cabinet will be conducted in accordance with: -

- 4.4.5.2 a) the Procedure Rules for Cabinet and all Committees in Part 4.2;
- b) the Executive Procedure Rules in this Part; and
- c) the Access to Information Procedure Rules in Part 4.6.

4.4.5.3 Where the Cabinet is considering matters which contain confidential information it must pass a resolution to exclude press and public during consideration of those reports and on matters which contain exempt information in accordance with the legislation and with the Access to Information Procedure Rules Part 4.6.

Private Meetings

4.4.5.4 The procedures to be followed prior to holding a private meeting are set out in the Access to Information Procedure Rules (Part 4.6.21).

Quorum

- 4.4.5.5 The quorum for a meeting of the Cabinet shall be three voting members of the Cabinet.
The quorum for a meeting of a committee of the Cabinet will be decided by the Cabinet when establishing the body.

Non-Cabinet members

- 4.4.5.6 Each political group, and councillors who do not constitute or belong to political groups, not represented on the Cabinet shall be entitled to contribute to discussion on items on the agendas for its meetings and ask questions of Cabinet Members on their areas of responsibility under the relevant agenda item. This arrangement is subject to the following: -

- a) the largest minority political group shall, at the Annual Meeting of the Full Council, nominate spokespersons to speak or ask questions on specific Cabinet functions. The spokespersons may nominate deputies to speak in their absence. In addition, the largest opposition group may nominate spokespersons for the areas of responsibility of Cabinet Deputies;
- b) at the discretion of the chair of the meeting, the spokespersons or their nominated deputies may contribute to discussion on items on which they are spokespersons and ask questions under the item entitled Members' Questions; however, they shall not have the right to vote;
- c) with the exception of the ability to nominate deputies, the arrangements described in (b) above shall apply to any political groups other than the largest minority group and to councillors who do not constitute or belong to political groups, but they shall each be limited to contributing no more than twice at a meeting by way of asking questions or speaking on an item;
- d) If an opposition spokesperson on a Cabinet function is unable to attend a meeting of the Cabinet, the Chair of the meeting shall have discretion to allow another member of that group to ask a question or comment on an item on the agenda for the meeting relating to that function; and
- e) the councillors observing all relevant rules on the disclosure of interests.

- 4.4.5.7 At the discretion of the Chair of the meeting, councillors shall be entitled to contribute to discussions on items at Cabinet meetings that relate specifically to their wards. All relevant rules on the disclosure of interests shall apply to those councillors.

Committees of the Cabinet

- 4.4.5.8 Attendance at meetings of the Cabinet must be dealt with in accordance with the Access to Information Procedure Rules in Part 4.6.

- 4.4.5.9 Informal briefing meetings need not be in public if the purpose of the meeting is not to take a decision but to receive a briefing from officers.

4.4.6 RECORD OF MEETINGS AND OFFICER KEY DECISIONS

4.4.6.1 A summary of the decisions of each meeting of the Cabinet shall be published within two working days of the meeting.

4.4.6.2 Any papers relied on by the Cabinet when making decisions, except those containing exempt or confidential information, shall be listed with the decisions. The papers shall be available for inspection by councillors and the public. Unless otherwise stated, the reports to the meeting shall be deemed to be the papers relied on. Any additional papers not circulated with the agenda shall be mentioned in the minutes.

4.4.6.3 Key Decisions taken by an individual Officer must be taken in accordance with the Access to Information Procedure Rule 4.6.17.2

4.4.7 DECISION-MAKING

4.4.7.1 The Access to Information Procedure Rules 4.6.10 – 4.6.21 will apply to the Cabinet and its committees and to any decisions taken by the Leader or Cabinet members under the Scheme of Executive Delegation

Cabinet decisions contrary to policy or budget

4.4.7.2 Where it appears to the Overview and Scrutiny Committee that the Cabinet has made, or is about to make, a decision which is contrary to a policy or budget agreed by the Council (a “contrary decision”), they shall seek the advice of the Chief Financial Officer and/or the Monitoring Officer, as appropriate.

4.4.7.3 Where the advice of either of those officers is that a contrary decision has been or will be made, the appropriate officer will report on the matter to the Cabinet. The Cabinet must then decide either:

- a) to confirm the former or intended decision;
- b) to revise the decision, if it is one that has already been made, to bring it into line with the relevant policy or budget; or
- c) to not proceed with the intended decision and/or to bring it into line with the relevant policy or budget.

4.4.7.4 In the case of (a) above, the Cabinet will report to the Full Council with the reasons for taking or intending to take the decision.

Urgent decisions contrary to policy or budget

4.4.7.5

Where an urgent decision needs to be taken by the Cabinet which is not in accordance with existing policy or an approved budget, and it is not possible to convene a quorate meeting of the Full Council before the decision needs to be taken, the approval of the Overview and Scrutiny Committee chair and/or vice chair (or the Mayor, as chair of the Full Council, in their absence) shall be sought to the matter being treated as urgent. If that agreement is obtained, the Cabinet may take the decision but must report to the next meeting of the Full Council on the decision taken and the reasons for its urgency. If the chair or Mayor do not consent to the decision being taken, the Leader or the Cabinet, as appropriate, must await the next scheduled or a special meeting of the Full Council.

Urgent Decisions

4.4.7.6

In making a decision the Executive may, for reasons to be recorded in the minutes of the meeting or the record of the decision, and with the concurrence of the Monitoring Officer, recorded in writing, deem a decision to be urgent and unable to await the call-in procedure (described in Part 4.5 of the Constitution). In such circumstances, the call-in procedure shall not apply, although the decision may be reviewed at the next meeting of the Overview and Scrutiny Committee if a request to do so is submitted to the designated officer.

4.4.7.7

An urgent decision of the Executive is one which, were there to be a delay, would result in some form of significant loss, hardship or detriment to the Council or a person or body outside the Council. The written opinion of the Monitoring Officer shall be obtained as to whether a matter could be regarded as urgent.

Key Decisions

4.4.7.8

A key decision is defined in Article 2.14.4 of this Constitution. If the Cabinet or its committees intend to take a key decision they must also comply with Access to Information Procedure Rules 4.6.1-9, unless Rule 4.6.12 (general exception) or Rule 4.6.13 (special urgency) apply.

4.4.8

CONFLICTS OF INTERESTS

4.4.8.1

Where the Leader or Cabinet Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5.1.1 of this Constitution.

4.4.8.2

If every 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 Councillors in Part 5.1.1 of this Constitution.

4.4.8.3

If the exercise of an Executive function has been delegated to a committee of the Cabinet, or an officer, and a conflict of interest arises then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Councillors or the Code of Conduct for Officers in Part 5.6 of this Constitution.