

**AMENDMENTS TO THE CABINET PROCEDURE
RULES AND CONSIDERATION OF DELEGATION OF
FUNCTIONS
23rd May 2011**

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable Council to make changes to the Cabinet Procedure Rules to reflect the new statutory provisions with regard to the Leader/Cabinet executive model. The report also asks Council to note that the delegation of executive functions is now the responsibility of the Leader, and that to ensure that the whole of the Scheme of Delegation is kept up to date Committees exercising non-executive functions will in due course be requested to review their arrangements for the delegation of functions.

This report is public

RECOMMENDATIONS

- (1) That the Cabinet Procedure Rules in Part 4 Section 4 of the Council's Constitution be amended as appended to the report.
- (2) That Council note that in accordance with the revised Cabinet Procedure Rule 1.2, the Leader will report to the next Council meeting on the delegation of executive functions.
- (3) That Council note that for the time being the Scheme of Delegation to Officers in Part 3 Section 15 of the Constitution remains effective, but that it will be for the Leader to confirm the arrangements for delegation of executive functions to officers, and that to ensure that the whole of the Scheme of Delegation is up to date, Committees exercising non-executive functions will in due course also be requested to update their arrangements for the delegation of functions.

1.0 Introduction

- 1.1 Council on the 15th December 2010 agreed that the new Leader and Cabinet model of executive arrangements be adopted following the May 2011 elections.
- 1.2 In the new model, Council elects the Leader and the Leader is then responsible for:-
 - determining the size of the Cabinet (2 or more to a maximum of 9 plus the leader)
 - appointing the members of the Cabinet including the Deputy Leader
 - allocating portfolios or areas of responsibility to the various Cabinet members

- Determining the scheme of delegation for the discharge of the executive functions of the Council, and
- Removing and replacing Cabinet members

1.3 The Leader must be elected for a four-year term of office, but the Council has included a provision in the Constitution which enables Full Council to remove the Leader during that time.

1.4 At the meeting on the 15th December 2010, Council approved some changes to the detail of the Constitution in anticipation of the change to the new model. However, more detailed changes to the Cabinet Procedure Rules are required to ensure that the Council's Constitution reflects the statutory responsibilities of the Leader.

2.0 Proposal Details

2.1 The proposed revised version of the Cabinet Procedure Rules is appended to this report for Council's approval.

2.2 Section 14(2) of the Local Government Act 2000 (as amended) provides that where a Council operates a new Leader and Cabinet form of executive, then it is for the Leader to allocate responsibility for the exercise of all the Council's executive functions. The Leader may decide to discharge any of the Council's executive functions personally, or may arrange for the discharge of any of the Council's executive functions by the Cabinet, by another member of the Cabinet, by a Committee of the Cabinet, or by an officer of the Council. Sections 18-20 provide for the discharge of functions by area committees, joint arrangements or by another local authority.

2.3 The revised Cabinet Procedure Rules reflect the statutory requirements, and are based on similar rules adopted by unitary authorities who were required to introduce the new model in the previous municipal year.

2.4 Part 3 Section 15 of the Council's Constitution contains the Scheme of Delegation to Officers. Once the Leader has indicated the extent of delegations which he/she intends to make to officers, Part 3 Section 15 will need to be amended with regard to the delegation of executive functions. In accordance with the revised Cabinet Procedure Rules, these delegations will be reported to Council. It is intended that in order to ensure that the delegation of non-executive functions is also updated, Committees exercising non-executive functions will be asked to review their delegations, so that an updated version of the complete Scheme of Delegation can be reported to Council for inclusion in the Constitution. For the time being, however, the current scheme will still have effect.

3.0 Details of Consultation

3.1 The Monitoring Officer has consulted through the Association of Council Secretaries and Solicitors on the most appropriate form for the Cabinet Procedure Rules.

4.0 Options and Options Analysis (including risk assessment)

4.1 The Cabinet Procedure Rules require to be amended to reflect the statutory requirements. The amended version at Appendix 1 has been drafted to meet these requirements, and the officer preferred option therefore is for Council to approve the Rules as drafted. However, it would be open to Council to make minor amendments provided that these comply with the statutory provisions.

5.0 Conclusion

5.1 Council is asked to approve the amended Cabinet Procedure Rules for

inclusion in the Constitution, and to note the proposed arrangements for reviewing the Scheme of Delegation to Officers.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

LEGAL IMPLICATIONS

The legal requirements are set out in the report.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has not further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer as the officer responsible for advising on the Council's Constitution.

BACKGROUND PAPERS

None

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