

5. THE CABINET PROCEDURE RULES

Application

- 5.1 These Cabinet Procedure Rules (the Rules) apply to the proceedings and meetings of the Cabinet.
- 5.2 These Rules do not apply to meetings of Council, Council Committees or Sub-committees.

Delegations by the Leader

- 5.3 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 Cabinet, Cabinet Committees, specific Cabinet Members or officers. The record of delegations will be presented to the Council at the Council's Annual Meeting and set out in this Constitution. The record of executive functions delegations will include:
- (a) The names, contact details and electoral area of those councillors appointed to the Cabinet by the Leader;
 - (b) The executive functions to be performed by the Cabinet;
 - (c) The executive functions to be performed by a specific Cabinet Member / Portfolio Holder (including any limitations on their authority);
 - (d) The constitution and terms of reference of any Cabinet Committee appointed by the Leader or the Cabinet and the names of the Cabinet Members appointed by the Leader to serve on any Cabinet Committee;
 - (e) The nature and extent of any executive function delegated to any Joint Committee or any other local authority, body or person along with the names of the Cabinet Members appointed to any Joint Committee for the municipal year;
 - (f) Any changes to any of the delegations to officers, the job title of the officers to whom delegations are made and any limits on their authority.
- 5.4 The record of delegations may be amended by the Leader for any reason at any time. The Leader must provide notice of any amendment to the Monitoring Officer, the as a whole Cabinet, or the Cabinet Committee, individual Cabinet Member or officer concerned. The notice must set out the extent of the amendment and whether it concerns the withdrawal of a delegation to the Cabinet as a whole, a Cabinet Committee, individual Cabinet Member or officer, a Joint Committee or joint working arrangement, or other body or person. Where the amendment concerns a change to a delegation to a Joint Committee or joint working arrangement, the Monitoring Officer will report the amendments to the next meeting of the Council.
- 5.5 Where the Leader withdraws a delegation from a Joint Committee, notice to do so will be considered as having been provided to the Joint Committee when such notice has been provided by the Leader to the Chair of the Joint Committee.

Sub-delegations

- 5.6 Unless otherwise specified by the Leader or elsewhere under this Constitution the Cabinet or an individual Cabinet Member may sub-delegate to an officer the discharge of an executive function for which the Cabinet or the Cabinet Member is responsible.
- 5.7 Where an executive function has been sub-delegated, it may still be performed by the Cabinet or the Cabinet Member who made the sub-delegation.
- 5.8 An officer with delegated authority may refer back to the Cabinet or the Cabinet Member as applicable an executive function which they have been sub-delegated.

Conflicts of Interest

- 5.9 Where the Leader has a conflict of interest they must ensure and that the decision is taken by a Cabinet Member who does not have such a conflict of interest, that the Leader does not influence the decision to be taken.
- 5.10 If every Cabinet Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Executive Director or a senior officer, or to seeking a dispensation to taking the decision.
- 5.11 Where a decision is being taken regarding a service which is commissioned by a Cabinet Member from an external service provider, Cabinet Members must be mindful of potential conflicts of interest arising if they also sit on the board of the service provider or are otherwise involved in its governance. In such circumstances Cabinet Members should seek advice from the Monitoring Officer before agreeing to sit on such a board or governance structure.

Cabinet Meetings

Applicable Rules

- 5.12 Cabinet meetings and meetings for Cabinet Committees are convened and conducted in accordance these Rules and the Access to Information Procedure Rules.
- 5.13 The Council Procedure Rules and the Committee Procedure Rules set out under Part 2 and Part 3 of this Constitution respectively do not apply to meetings of the Cabinet or Cabinet Committees.

Time and Place of Cabinet Meetings

- 5.14 The Cabinet will meet as required throughout the municipal 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 least five clear working days before a meeting, the Monitoring Officer will send a summons signed by them to every councillor of the Council. The summons will give the date, time and place of the

meeting; specify the business to be transacted and will be accompanied by such reports as are available.

Quorum

- 5.15 The quorum for a Cabinet meeting is 50% of Cabinet Members, not including Cabinet Deputies. If the quorum is not present within ten minutes of the scheduled start of the meeting or such longer time as the Chair allows, the business of the meeting shall be adjourned to the next Cabinet Meeting.

Chair

- 5.16 The Leader, or in their absence the Deputy Leader shall chair a Cabinet Meeting. In the absence of both the leader and the Deputy Leader, the Cabinet Members present at the meeting will appoint from amongst themselves some to chair the meeting.

Attendance at Cabinet Meetings

- 5.17 Members of the press and public may attend all Cabinet Meetings in accordance with Access to Information Procedure Rules set out under Part 1 of this Constitution, except when:
- (a) The Cabinet has decided that the press and public 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; or
 - (b) The person attending the meeting has been removed on the order of the Chair so as to prevent the disruption of the meeting.
- 5.18 A councillor who is not Cabinet Member may attend a Cabinet meeting as a member of the public in accordance with the Access to Information Procedure Rules, except where excluded in accordance with Rule 5.17 above.
- 5.19 A councillor who is not a Cabinet Member may only speak at a Cabinet meeting if invited to do so by the Chair and asking a question under Rule 5.28.
- 5.20 Officers may attend Cabinet Meetings as follows:
- (a) The Chief Executive and the Deputy Chief Executive may attend Cabinet meetings. other Executive Directors may attend Cabinet meetings at the invitation of the appropriate Cabinet Member;
 - (b) The Statutory Officers of the Council or their nominees may attend Cabinet meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the Chair.
- 5.21 Cabinet Members are not permitted to appoint substitutes to attend Cabinet meetings in their place. The absence of a Cabinet Member will not prevent the consideration or making of decisions in respect of a matter. If a matter has been delegated to an absent Cabinet Member, it may be referred to the Cabinet as a whole for consideration and decisions to be made. An absent Cabinet Member may ask a

Deputy Cabinet Member to speak on their behalf, if permitted by the Chair, but Deputy Cabinet Members are permitted to vote at Cabinet Meetings.

Order of Business

- 5.22 The following business will be conducted at each Cabinet meeting:
- (a) Elect a person to chair if the Leader and Deputy Leaders are not present to chair the meeting;
 - (b) To approve the minutes of the last meeting;
 - (c) To receive any apologies for absence;
 - (d) To receive any declarations of interest;
 - (e) To receive any statements from the Leader;
 - (f) To consider petitions or motions referred by Council which relate to executive functions;
 - (g) To 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 press and / or public.

Minutes

- 5.23 The Chair will sign the minutes of the proceedings at the next Cabinet meeting. The Chair will move that the minutes of the previous Cabinet meeting be signed as a correct record. The only part of the minutes which can be discussed is their accuracy.
- 5.24 Where an extraordinary Cabinet meeting is, there is no requirement for the minutes of the previous Cabinet meeting to be signed at the extraordinary meeting.

Disturbance by the Public

- 5.25 If a member of the public interrupts the proceedings or otherwise interferes with the conduct of a Cabinet meeting the Chair will warn the person concerned. If that person continues to interrupt or interfere with the meeting the Chair will order their removal from the meeting room.
- 5.26 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part of the meeting room to be cleared.

Exclusion of the Press and Public

- 5.27 Members of the press and public may only be excluded from a meeting of the Cabinet in accordance with the Access to Information Procedure Rules set out under Part 1 of this Constitution.

Questions

Questions on Notice

5.28 Subject to Rule 5.29 any councillor may ask a question of the Cabinet on any matter in relation to which the Council has powers or duties or which affects the administrative area of the Council.

Notice of Questions

5.29 A councillor may ask a question under Rule 5.28 if either:

- (a) They have given notice of the question in writing or by e-mail to the Monitoring Officer no later than midday three clear working days before the day of the meeting; or
- (b) The question relates to urgent matters, the councillor has the consent of the Chair and the content of the question is received by the Monitoring Officer in writing or by e-mail by 9.00 a.m. on the day of the meeting.

Content of Questions

5.30 All questions must, in the opinion of the Chair:

- (a) Not be unreasonable;
- (b) Contain no expressions of opinion;
- (c) Relate to matters on which the Council has or may determine a policy;
- (d) Not relate to questions of fact;
- (e) Not require the disclosure of confidential or exempt information;
- (f) Not relate to a matter which is of purely personal concern to an individual / family member.
- (g) Not be substantially the same as a question which has been put at a Council, Cabinet or Scrutiny Committee meeting in the last six months

Time Allowed for Questions

5.31 The number of questions asked under Rule 5.28 and the total time allowed for consideration of such questions shall be determined by the Chair.

5.32 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.

5.33 Any remaining questions shall be responded to in writing before the next ordinary meeting of the Cabinet.

Record of Questions

- 5.34 The Monitoring Officer will send a copy of any question received under Rule 5.28 to the Chair. Copies of all questions will be available to all councillors and the public attending the meeting.
- 5.35 Rejected questions will be returned to the questioner with the reasons for rejection.

Order of Questions

- 5.36 Questions from councillors will be asked in the order determined by the Chair except that if the largest opposition Group Leader has a question they will be invited to put it first.

Response

- 5.37 An answer to a question may take the form of:
- (a) A direct verbal answer;
 - (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (c) Where the reply cannot conveniently be given verbally, a written response will be provided no later than five clear working days after the meeting;
 - (d) 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 the Cabinet Procedure Rules

Suspension

- 5.38 Where permitted by law all of these Rules may be suspended by motion on notice or without notice if at least one half of the whole number of Cabinet Members are present. Suspension can only be for a single item or the duration of the Cabinet meeting.

Key Decisions

- 5.39 A (Key Decision) In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 20212, Key Decisions are decisions which:
- (a) Results in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
 - (b) Is deemed to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the Council's administrative area.

- 5.40 For the purpose of being a key decision, the Council has determined that the level of expenditure or saving (the Key Decision Financial Threshold) shall be £500,000.
- 5.41 Subject to Rule 5.47 below (general exception), Rule 5.48 below (special urgency) or Rule 5.49 below (major emergencies), a Key Decision may not be taken unless:
- (a) At least twenty-eight clear calendar days' notice has been published in connection with the matter in question (such notice shall be given by means of the Forward Plan); or
 - (b) At least five clear working 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; and
 - (c) Where the decision is to be taken at a meeting of the Cabinet or a Cabinet Committee, notice of the meeting has been given in accordance with Access to Information Procedure Rules.

The Forward Plan

- 5.42 The Leader will ensure that notice of all Key Decisions are given at least twenty-eight clear calendar days before they are due to be taken.
- 5.43 The Council will list all Key Decisions once a month in a Forward Plan indicating which decisions the Cabinet anticipate that they will take during the next four months, together with any particularly significant Key Decisions which are anticipated to be taken will take within the next four to twelve 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 they consider appropriate.
- 5.44 The Forward Plan will include the following information in respect of each Key Decision:
- (a) The matter in respect of which the decision is to be taken;
 - (b) The person or body by whom the decision is to be taken;
 - (c) The date on which, or the period within which, the decision is to be taken;
 - (d) A list of the documents which will be considered by the person or body taking the decision;
 - (e) Notice, if appropriate, that it is intended that a decision will be taken in a private session because the decision contains confidential or exempt information.
- 5.45 Where the Cabinet anticipate taking a Key Decision on a matter and inclusion of the matter within the Forward Plan would disclose confidential or exempt information the Cabinet may limit the entry in the Forward Plan to such information as may be disclosed without disclosing confidential or exempt information provided that notice under Rule 5.44(e) above has been given.

- 5.46 The Cabinet 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 the Council's website.

General Exception

- 5.47 Subject to Rule 5.48 (special urgency) or Rule 5.49 (major emergencies) if a matter which is likely to be a Key Decision has not been published for a minimum of twenty-eight clear calendar days on the Council's website, 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 twenty-eight 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 Council's offices and on the Council's website; and
 - (c) At least five clear working days have elapsed since the Monitoring Officer complied with (b) above.

Special Urgency

- 5.48 If Rule 5.49 (major emergencies) below does not apply and, by virtue of the date by which a decision must be taken, Rule 5.47 (general exception) above cannot be followed and the five clear working days' notice of the decision cannot be given, then the decision can only be taken if the agreement of 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 at the Council's offices. If there is no Chair of a relevant Select Committee, or if the Chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Mayor, or in their absence the Deputy Mayor will suffice.

Major Emergencies

- 5.49 In the event of an emergency as listed below, the Leader may take any immediate urgent decision required without consultation. In the event that the Leader cannot be contacted or is unavailable the Deputy Leader may take any immediate urgent decision required without consultation. In the event that neither the Leader or the Deputy Leaders can be contacted, or are unavailable to act for any reason, the Chief Executive may take any immediate urgent decisions required without consultation. A major emergency is any event or circumstance (happening with or without warning) that causes or threatens:
- (a) Death or injury; or
 - (b) Disruption to the community; or

- (c) 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.

Quarterly Reports on Special Urgency Decisions

- 5.50 The Leader will submit quarterly reports to the Council on the Key Decisions taken in accordance with Rule 5.48 (special urgency) above and / or Rule 5.49 (major emergencies) above 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 Executive Decisions

- 5.51 After any meeting of the Cabinet, the Monitoring Officer, will produce a record of every executive decision taken at that meeting as soon as practicable. The record will include the decisions taken, the date the decisions were taken, a statement of the reasons for each decision and, where appropriate, any alternative options considered and rejected at that meeting with the reasons. The record will also include any conflicts of interest declared in relation to a decision, detail whether the Monitoring Officer agreed to make a dispensation where a conflict of interest was declared before the decision was taken.
- 5.52 Where an individual Cabinet Member or officer takes an executive decision under delegated authority the Monitoring Officer will produce a written record detailing the information specified in Rule 5.51 above.
- 5.53 A copy of a record produced in accordance with Rule 5.51 and Rule 5.52 and any report considered by the decision maker will be published on the Council's website and available at the Council's offices.
- 5.54 Nothing in Rules 5.51 – 5.53 requires the disclosure of confidential or exempt information.

Provision of Reports to Scrutiny Committee

- 5.55 on the provision of report in accordance with Rule 5.51, the person who prepared the report will also provide 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 Decisions

- 5.56 As soon as reasonably practicable after any decision has been taken by a Cabinet Member, or an Executive Director or relevant senior officer, which would be an executive decision if taken by a Cabinet Member, the decision maker will prepare, or instruct the Proper Officer to 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. This does not require the disclosure of exempt or confidential information.

Joint Arrangements

- 5.57 Southend-on-Sea City Council works with a wide range of organisations to promote the economic, social and environmental well-being of its residents and businesses. These arrangements can take a variety of forms including formal agreements, joint working, appointments, joint committees and cooperation with third parties.
- 5.58 The Council has entered into the joint authorities and joint committees set out below under Section 6 and Section 7.