

**BOSTON BOROUGH COUNCIL**

**CONSTITUTION  
MAY 2016**

**Part Four (D)**

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## **PART 4 (SECTION D)**

# **CABINET PROCEDURE RULES**

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## **CABINET**

### **1. HOW DOES THE CABINET OPERATE?**

#### **1.1 Taking Executive Decisions**

The Leader may discharge the executive functions of the Council or he/she may provide for any executive functions of the Council to be discharged by:-

- (a) the Cabinet as a whole;
- (b) a committee of the Cabinet;
- (c) an officer of the authority;
- (d) an individual member of the Cabinet
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority

#### **1.2 Appointments and Delegation of Executive Functions by the Leader**

1.2.1 At the Annual Meeting of the Council, the Leader will present to the Council the names of the Members appointed to the Executive by the Leader (including the Executive Member who is appointed as Deputy Leader) and their portfolios.

1.2.2 Either at the Annual Meeting of the Council or as soon as practicable thereafter, the Leader will present to the Monitoring Officer a written record of

- (i) the detailed remits of the portfolios of the Executive Members ;
- (ii) any delegations made by the Leader in respect of the discharge of executive functions. The document presented by the Leader to the Monitoring Officer will contain the following information about the discharge of the Council's executive functions in relation to the coming year:

- The extent of authority of the Executive as a whole;
- The extent of any authority delegated to individual Executive Members, including details of any limitation on their authority
- The terms of reference and constitution of such committees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
- The nature and extent of any delegation of executive functions to Area Committees, or any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- The nature and extent of any delegation to Council officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **1.3 Sub-delegation of executive functions**

- 1.3.1 Where the Leader delegates an executive function to the Executive then unless the Leader directs otherwise, the Executive may delegate further to a committee of the Executive or to an officer.
- 1.3.2 Where the Leader delegates an executive function to a committee of the executive or an individual member of the Executive then unless the Leader directs otherwise, a committee of the Executive or an individual member of the Executive may delegate further to an officer.
- 1.3.3 Even where executive functions have been delegated under (a) or (b) above, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.
- 1.3.4 Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when he/she has served it on its chair.

### **1.4 The Council's Scheme of Delegation and Executive Functions**

- 1.4.1 The Leader may amend the Scheme of Delegation containing the details required in Article 7 and set out in Part 3 of this Constitution insofar as it relates to executive functions at any time during the year in accordance with the procedure set out below..

- (a) Where the Leader wishes to delegate the discharge of an executive function that has not previously been delegated

- to an officer; or
- to the Executive; or
- to a Committee of the Executive; or
- to a member of the Executive

the Leader must give written notice of the new delegation to both the person or body to whom the executive function is to be delegated and the Monitoring Officer .

The delegation of the executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the delegation of the executive function is entered into the Register of the Delegation of the executive Functions and will report the new delegation to Council at the earliest opportunity.

- (b) Where the Leader wishes to transfer the discharge of an executive function that has been previously delegated
- from one officer to another officer; or
  - from one officer to the Executive, a Committee of the Executive, or a Member of the Executive; or
  - from the Executive to an officer, a Committee of the Executive or a Member of the Executive; or
  - from a Committee of the Executive to an officer, the Executive or a member of the Executive; or
  - from a Member of the Executive, to an officer, the Executive, or a Committee of the Executive

then in each case the Leader must give written notice to the person or body from whom the exercise of the executive function is to be transferred, the person or body to whom the exercise of the executive function is to be transferred and the Monitoring Officer.

The transfer of the delegation of the executive function will take effect on receipt of the Leader's written notice by each of the parties listed above.

The Monitoring Officer will ensure that a record of the transfer of the executive function is entered into the Register of the Delegation of Executive Functions.

- (c) Where the Leader wishes to withdraw the delegation of an executive function that has been delegated to either
- an officer; or
  - the Executive; or
  - a Committee of the Executive; or
  - a Member of the Executive

and to discharge the executive function personally, the Leader must give written notice to the person or body from whom the exercise of the executive function is to be withdrawn and to the Monitoring Officer. The withdrawal of the delegation of an executive function will take effect on receipt of the Leader's written notice by both of the parties listed above.

The Monitoring Officer will ensure that a record of the withdrawal of the executive function is entered into the Register of the Delegation of Executive Functions.

## **1.5 Conflicts of Interest**

- 1.5.1 Where any Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution;
- 1.5.2 If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member of the Cabinet, or an officer, and should a conflict of interest arise, 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 Members in Part 5 of this Constitution.
- 1.5.3 In particular there should be:-
- Early disclosure of any interest
  - A written record identifying the nature of the interest
  - If a 'prejudicial interest' arises the Member should withdraw and not exercise functions in relation to that matter.

## **1.6 Arrangements for Cabinet Meetings**

- 1.6.1 The Cabinet will meet at least 6 times a year on dates and at times to be set by the Council. The Cabinet and Cabinet Committees (if any) shall meet at the Council's main offices or another location to be agreed. If the Council does not fix the dates and times of meetings, the Cabinet/Cabinet Committee shall do so.
- 1.6.2 If the date and time of the first ordinary meeting of the Cabinet has not been fixed by the Council or the Cabinet, the Leader of the Council may fix the date and time.
- 1.6.3 The Leader of the Council, after consultation with the Chief Executive and appropriate Members of other groups represented in the Cabinet, shall have power to change the dates, times and venues of any meetings of the Cabinet. The same provisions shall apply to meetings of Cabinet Committees.
- 1.6.4 The Leader of the Council or the Chairman of a Cabinet committee may call a special meeting of the Cabinet/Cabinet Committee at any time, after consultation with the Chief Executive and appropriate Members of other groups represented on the Cabinet/Cabinet Committees.

## **1.7 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be one third of the total number of Members of the Cabinet, or 4, whichever is the larger.

## **1.8 How are decisions to be taken by the Cabinet?**

1.8.1 Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of this Constitution.

1.8.2 Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## **2. HOW ARE CABINET MEETINGS CONDUCTED?**

### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside and if he/she is not present then a person appointed by those present shall preside.

### **2.2 Casting Vote**

In the event of an equality of votes the Leader or in his/her absence the person appointed to preside shall have a second or casting vote.

### **2.3 What Business?**

At each meeting of the Cabinet the following business will be conducted:-

- (i) to receive apologies for absence
- (ii) approval of the minutes of the last meeting;
- (iii) declarations of interest, if any;
- (iv) answer any written questions received from Members of the public no later than 5 p.m. two clear working days before the day of the meeting.
- (v) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (vi) consideration of reports or recommendations from Overview and Scrutiny Committees; and
- (vii) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the

Access to Information Procedure Rules set out in Part 4 of this Constitution.

## **2.4 Questions by the public**

- 2.4.1 Members of the public may ask questions of the Leader or any Cabinet member at ordinary meetings of the Cabinet. A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Chief Executive no later than 5 p.m. two clear working days before the day of the meeting. Each question must give the name and address of the questioner and must identify to whom it is to be put. Questions must be written as succinctly as possible. Answers to questions submitted by the public will be made available to the questioner four working hours prior to the commencement of the meeting.
- 2.4.2 No person or organisation may ask more than one question at any one meeting. The Chief Executive may reject a question if it:-
- (i) does not relate to a matter of general interest; or
  - (ii) does not relate to a matter for which the Council has responsibility or which affects the interests of the Borough; or
  - (iii) relates exclusively to an individual grievance or personal issue;
  - (iv) or is defamatory, offensive or frivolous;
  - (v) or is substantially the same as a question which has been put at a meeting of the Cabinet within the previous six months;
  - (vi) or requires the disclosure of exempt or confidential information.
- 2.4.3 Any person whose question is rejected in accordance with 2.4.2 above will be informed in writing including the reasons for rejection.
- 2.4.4 Questions will be asked in the order in which notice of them was received. The Leader will invite the questioner to put the question to the Cabinet member named in the notice. The questioner must read out the question in person, unless prevented from doing so by a physical or mental disability or infirmity. Questions must be put strictly in the form in which it was submitted.
- 2.4.5 A questioner who has put a question in person may also put one supplementary question without notice to the Cabinet member who has replied to his or her original question. A supplementary question must arise directly out of the original question or reply.

## **2.5 Urgent Business**

The Leader (or the Member presiding) may accept any item, which is considered to be urgent on the agenda.



## **2.6 Consultation**

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## **2.7 Who can put items on the Cabinet agenda?**

- 2.7.1 The Chief Executive will advise the Leader of items which, in his/her opinion, need to be considered at the Cabinet and will submit a draft list of items to the Leader for consideration.
- 2.7.2 Any Member of the Cabinet may require the Proper Officer to place an item on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request the Proper Officer will comply.
- 2.7.3 In addition, the Proper Officer will make sure that an item is placed on the agenda for the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.
- 2.7.4 The Head of Paid Service, Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call a meeting of the Cabinet in order to consider the matter.
- 2.7.5 Subject to (a) above, the Leader (or in his/her absence the Cabinet Member who is to preside at the relevant Cabinet meeting) in consultation with other Members of the Cabinet and the Chief Executive, will decide on the final form of the agenda for each Cabinet Meeting.

## **2.8 Attendance at Meetings of the Cabinet**

- 2.8.1 Non-Cabinet Members may speak on appropriate subjects (for example matters concerning their Ward or *on areas of particular expertise* \*) at the discretion of the Leader (or person presiding).
- 2.8.2 Chairmen of Overview and Scrutiny Committees (or their representatives) shall be entitled to present reports and recommendations emanating from their Committees.
- 2.8.3 No substitutes are allowed at Cabinet meetings.

2.8.4 Rules 1 – 11 of the Access to Information Rules apply where the Cabinet is taking a key decision. All Cabinet meetings are held in public and therefore the press and public will only be excluded when it is likely that confidential or exempt information would be disclosed.

## **2.9 Recording of Meetings**

2.9.1 Members of the public are entitled to report on meetings of the Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means :-

- Filming, photographing or making an audio recording of proceedings at a meeting;
- Using any other means for enabling a person who is not present to see or hear proceedings at a meeting as it takes place or later; or
- Reporting or providing commentary on proceedings at a meeting, orally or in writing, so the report or commentary is available as the meeting takes place or later if the person is not present.

2.9.2 Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

2.9.3 Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

2.9.4 For meetings held in the Municipal Buildings, members of the public are welcome to use the Council's Wi-Fi facilities, which can be accessed by selecting 'onlincolnshire' from the list of available networks on your device. You must ensure that you have enabled Wi-Fi on your device. Occasionally, meetings may take place in venues not operated by the Council and in such circumstances members of the public are advised to check with the venue whether Wi-Fi is available.

2.9.5 In order to avoid accidents, the Council regrets that it is unable to facilitate members of the public using electric plug sockets in meetings for their equipment.