

## **Chapter 4**

### **INTRODUCTION**

**See Appendix 5 for Standing Orders relating to the Conduct of Council Business**

### **DECLARATION OF INTEREST**

There is a standing item on every Council agenda headed Declaration of Interests. This item reminds Members of their responsibility to declare any Disclosable Pecuniary Interest/Disclosable Other Interests which they have in any item of business on the agenda, no later than when that item is reached. Subject to certain exceptions in the Code of Conduct, Members may have to leave the meeting prior to discussion and voting on the item.

The Council maintains a formal Register of Members' Interests. The Register contains details of all registerable interests relevant to individual Members as required by Part III of the Local Government Act 2000 and the Localism Act 2011 (Section 27). The information is kept on a year by year basis in alphabetical order based on the surname of the Member (Councillor). The records show a pro-forma giving the date on which the Proper Officer of the Council received each notice of interest, the name of the Member who gave the notice and in individual sleeves thereafter the actual notices received from each Member, duly signed and dated.

A similar Register of Interests is kept for the Parish Councils of Hale, Preston Brook, Daresbury, Moore, Halebank and Sandymoor.

### **ACCESS TO INFORMATION PROCEDURE RULES**

#### **1. SCOPE**

These rules apply to all meetings of the Council, Policy and Performance Boards, the Audit and Governance Board, and Regulatory Committees and public meetings of the Executive (together called meetings).

#### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

#### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules i.e. meetings dealing with exempt and confidential items.

#### **4. NOTICES OF MEETING**

The Council will give at least five clear day's notice of any meeting by posting details of the meeting at the Municipal Building and all reception points of the Council.

#### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

#### **6. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Chief Executive thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

#### **7. ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive – excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **8. BACKGROUND PAPERS**

### **8.1 List of background papers**

The Officer compiling the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10 below) and in respect of Executive reports, the advice of a political advisor, (if any).

### **8.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## **9. SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices.

## **10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### **10.2 Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **10.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

## 10.4 Meaning of exempt information

Exempt information means:

- (i) information falling within the categories 1 to 7 below; and
- (ii) which does not also fall within one or more of the categories 8 to 9 below; and
- (iii) in all the circumstances of the case the public interest in maintaining the exemption (i.e. withholding the information from the public and press) outweighs the public interest in disclosing the information.

### Categories of information which may be treated as exempt:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

### Categories of information which may not be treated as exempt under paragraphs 1 to 7 above:

8. Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - (a) the Companies Act 1985;
  - (b) the Friendly Societies Act 1974;
  - (c) the Friendly Societies Act 1992;
  - (d) the Industrial and Provident Societies Acts 1965 to 1978;
  - (e) the Building Societies Act 1986; or
  - (f) the Charities Act 1993.

9. Information is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

## **11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the Chief Executive thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12. APPLICATION OF RULES TO THE EXECUTIVE**

Rules 13 – 24 apply to the Executive and its Committees. If the Executive or its Committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 14.03 of this Constitution. If the Executive or its Committees meet to discuss a key decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for Officers to brief Members.

## **13. PROCEDURE BEFORE TAKING KEY DECISIONS**

A key decision is a decision which is likely:

(a) to result in a local authority incurring expenditure which is, or the making of savings which are, significant having regard to the Local Authority's budget for the service or function to which the decision relates;

or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

(a) a notice (called here a Forward Plan) has been published in connection with the matter in question;

(b) at least 5 clear days have elapsed since the publication of the Forward Plan; and

(c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **PROCEDURE**

1. The Chief Executive and Monitoring Officer will devise a register of all key decisions which will be kept in Committee Section in the directorate of the Chief Executive. The responsibility to ensure the register is completed is an individual Member/Officer responsibility. The register must be completed as soon as reasonably practicable after a decision is taken.

The register will include:

- (i) The decision;
- (ii) A reason for the decision;
- (iii) Relevant interests of Members involved;
- (iv) Consultation undertaken including named Officers from which advice was taken and the advice given;
- (v) Dispensations granted;
- (vi) The date the decision is to become effective.

2. Register must be publicly available.

3. There must be a Forward Plan of key decisions. The plan must contain the proposed key decisions for the next four months. The Plan is available on the internet/intranet and must be made available to the public and Policy & Performance Boards at least two weeks in advance of the period covered.

4. The Plan must set out:

- (i) A short description of matters under consideration and when key decisions are expected to be taken;
- (ii) Who is responsible for taking the decisions and how they can be contacted;
- (iii) What relevant reports and background papers are available; and
- (iv) How and when the decision maker intends to involve local stakeholders in the decision making process.

## **14. THE FORWARD PLAN**

### **14.1 Period of Forward Plan**

Forward Plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent Plans will cover a period beginning with the first day of the second month covered in the preceding Plan.

### **14.2 Contents of Forward Plan**

The Forward Plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Executive, a Committee of the Executive, individual Members of the Executive, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The Forward Plan must be published at least 14 days before the start of the period covered.

Exempt information need not be included in a Forward Plan and confidential information cannot be included.

## **15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule 16 (special urgency), 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 included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates;

(b) the proper Officer has informed the Chair of a relevant Policy and Performance Board, or if there is no such person, each Member of that Committee in writing, by notice, of the matter about which the decision is to be made;

(c) the proper Officer has made copies of that notice available to the public at the offices of the Council; and

(d) at least 5 clear days have elapsed since the proper Officer complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public.

## **16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (General Exception) cannot be followed, 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 Chair of a relevant Policy and Performance Board that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Policy and Performance Board, or if the Chair of each relevant Policy and Performance Board is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

## **17. REPORT TO COUNCIL**

### **17.1 When a Policy and Performance Board can require a report**

If a Policy and Performance Board thinks that a key decision has been taken which was not:

(a) included in the Forward Plan; or

(b) the subject of the general exception procedure; or

(c) the subject of an agreement with a relevant Policy and Performance Board Chair, or the Mayor/Deputy Mayor of the Council under Rule 16,

the Policy and Performance Board may, after liaising with the Monitoring Officer, and taking his/her advice, require the Executive to submit a report to the Council within such reasonable time as the Policy and Performance Board specifies. The power to require a report rests with the Policy and Performance Board, but is also delegated to the proper Officer, who shall require such a report on behalf of the Policy and Performance Board when so requested by the Chair or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Policy and Performance Board.



## **17.2 Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Policy and Performance Board, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

## **17.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 16 (Special Urgency) 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.

## **18. RECORD OF DECISIONS**

After any meeting of the Executive or any of its Committees, whether held in public or private, the proper Officer or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## **19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private.

## **20. NOTICE OF PRIVATE MEETING OF THE EXECUTIVE**

Members of the Executive or its Committees will be entitled to receive three clear working day's notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

## **21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

(a) The Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer, or their nominees are entitled to attend any meeting of the Executive and its Committees. The Executive may not meet unless the proper Officer has been given reasonable notice that a meeting is to take place.

(b) A private Executive meeting may only take place in the presence of the proper Officer or his/her nominee with responsibility for recording and publicising the decisions.

## **22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **22.1 Reports intended to be taken into account**

Where an individual Member of the Executive 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 5 clear days after receipt of that report.

### **22.2 Provision of copies of reports to Policy and Performance Board**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of every relevant Policy and Performance Board before a decision is taken and make it publicly available at the same time.

### **22.3 Record of individual decision**

As soon as reasonably practicable after an Executive decision has been taken by an individual Member of the Executive or a key decision has been taken by an Officer, he/she will prepare, or instruct the proper Officer to prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant (if any).

## **23. POLICY AND PERFORMANCE BOARD ACCESS TO DOCUMENTS**

### **23.1 Rights to copies**

Subject to Rule 23.2 below, a Policy and Performance Board will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to:-

- (a) any business transacted at a public or private meeting of the Executive; or
- (b) any decision taken by an individual Member of the Executive.

### **23.2 Limit on rights**

A Policy and Performance Board will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser (if any).

## **24. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **24.1 Material relating to previous business**

All Members 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 at a private meeting unless either (a) or (b) below applies.

(a) it contains exempt information falling within paragraph 3 (except to the extent that the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract) or paragraph 6 of the categories of exempt information; or

(b) it contains the advice of a political adviser (if any).

### **24.2 Material relating to key decisions**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive which relates to any key decision unless paragraph (a) or (b) above applies.

### **24.3 Nature of rights**

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

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The framework for Executive decisions**

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

### **2. Process for developing the framework**

The process by which the budget and policy framework shall be developed is:

(a) The Executive will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. In drawing up proposals the Executive will consult with stakeholders in a manner appropriate to the matter under consideration. Once drawn up the proper Officer will serve copies of the proposals on the chairs of relevant Policy and Performance Boards together with dates when the Executive will consider them further, which shall be a reasonable time after service of the notice on the Chair.

(b) The Policy and Performance Board may, at the discretion of the Chair, be convened to consider whether to respond to the Executive's initial proposals and whether any consultation by it is appropriate. If so the Policy and Performance Board will conduct a consultation exercise and will reflect any representations made to its response to the Executive within the timescale set for decision by the Executive.

(c) The Executive will finalise its proposals for the Council to consider having taken into account any comments from the Policy and Performance Chairs or Boards. The report to Council will show the Executive's response to those comments.

(d) The Council will consider the proposals of the Executive and either adopt them without amendment or, if it has any objections to all or some part of the proposals, inform the Leader of the Council of its objections. In the event that the Council notifies the Leader of the Council that it has objected to the proposals those objections will be dealt with accordance with the Council's Dispute Solving Process (and Standing Orders relating to proceedings and business) set out in Appendix 3.

(e) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

### **3. Decisions outside the budget or policy framework**

(a) Subject to the provisions of paragraph 5 (virement) the Executive, individual Members of the Executive and any Officers, or joint arrangements discharging Executive functions, may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the

budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.

(b) If the Executive, individual Members of the Executive and any Officers, or joint arrangements discharging Executive functions, want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### **4. Urgent decisions outside the budget or policy framework**

(a) The Executive, a Committee of the Executive, an individual Member of the Executive or Officers, or joint arrangements discharging Executive functions, may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- i) if it is not practical to convene a quorate meeting of the full Council; and
- ii) if the Chair of a relevant Policy and Performance Board agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chair of the relevant Policy and Performance Board's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of a relevant Policy and Performance Board the consent of the Mayor and in his/her absence, the Deputy Mayor, will be sufficient.

(b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

#### **5. Virement**

When a potential overspend of expenditure or a shortfall in income cannot be contained within a single cost centre in accordance with the budget and policy framework then consideration shall be given to the transfer of a budget provision from another cost centre - a process called VIREMENT.

It shall be borne in mind that virement represents the diversion of resources meant for one purpose, and approved by the Council for that purpose, to fund other purposes.

Virement into a receiving budget head may only occur provided that the donating cost centre does not subsequently become overspent during the budget period.

No virement is permitted which involves a change in policy or commits expenditure into future years.

The rules relating to Virement are covered in section 5.2.2.2 of Finance Standing Orders.

## **6. In-year changes to policy framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Executive, an individual Member of the Executive or Officers, or joint arrangements discharging Executive functions, must be in line with it. No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

(a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

(b) necessary to ensure compliance with the law, ministerial direction or Government guidance;

(c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## **7. Call-in of decisions outside the budget or policy framework**

(a) Where a Policy and Performance Board is of the opinion that an Executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

(b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Policy and Performance Board if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Policy and Performance Board may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Policy and Performance Board. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

i) endorse a decision or proposal of the Executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

*Or*

ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

*Or*

iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

#### **8. Call-in of other decisions**

Any other matter decided by the Executive will be subject to the call-in procedure set out in the Policy and Performance Board Procedure Rules.

## **EXECUTIVE PROCEDURE RULES**

### **1. How does the Executive operate?**

#### **1.1 Who may make Executive decisions?**

The arrangements for the discharge of Executive functions are set out in the Council's Standing Orders relating to Duties of Proper Officers and Delegation to Officers and relating to Powers and Duties of Executive Board, Policy and Performance Boards, Committees and Forums and Panels. (See Appendix 4.)

In the absence of a specific delegation in the above Standing Orders, Executive decisions will only be made by the Executive Board.

#### **1.2 Delegation by the Leader**

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Chapter 3 and Appendix 4 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- i) the names, addresses and wards of the people appointed to the Executive by the Leader;
- ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such Executive Committees or Sub-committees of the Executive as the Leader appoints and the names of Executive Members appointed to them;
- iv) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements and the names of those Executive Members appointed to any joint Committee for the coming year; and
- v) the nature and extent of any delegation to 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**

- (a) Where the Executive, or a Committee of the Executive is responsible for an Executive function, they may delegate further to joint arrangements or an Officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.
- (c) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader may delegate further to an Officer.



(d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

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

(a) Subject to (b) below the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Chapter 3 and Appendix 4 of this Constitution.

(b) The Leader is able to amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the proper Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Executive as a whole. The proper Officer will present a report to the next Ordinary Meeting of the Council setting out the changes made by the Leader.

(c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chair.

#### **1.5 Conflicts of Interest**

(a) Where the Leader or any other Member of the Executive Board has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter 5 of this Constitution.

(b) If every Member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Chapter 5 of this Constitution.

(c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member 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 Chapter 5 of this Constitution.

#### **1.6 Executive meetings – when and where?**

The Executive will meet at least 10 times per year at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader.

#### **1.7 Public or private meetings of the Executive?**

When key decisions are taken, the Executive will meet in public subject to the Access to Information rules in Chapter 4 of this constitution in relation to exempt information.

## **1.8 Quorum**

The quorum for a meeting of the Executive shall be 5.

## **1.9 How are decisions to be taken by the Executive?**

(a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Chapter 4 of the Constitution.

(b) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

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

### **2.1 Who presides?**

The Leader will preside at any meeting of the Executive or its Committees at which he is present, or may appoint another Member of the Executive to do so.

### **2.2 Who may attend?**

When key decisions are taken, Executive Board meetings will be held in public and open to the members of the press subject to the provisions of the Access to Information Act 1985.

### **2.3 What business?**

At each meeting of the Executive the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest (if any);
- iii) matters referred to the Executive for reconsideration by the Executive in accordance with the provisions contained in the Policy and Performance Board procedure rules or the Budget and Policy Framework Procedure Rules set out in Chapter 4 of this Constitution;
- iv) consideration of reports from Policy and Performance Board; and
- v) 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 Chapter 4 of this Constitution.

### **2.4 Consultation**

All reports to the Executive from any Member of the Executive 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 Policy and Performance Boards, 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.

## **2.5 Who can put items on the Executive agenda?**

The Leader will decide upon the schedule for the meetings of the Executive. He may put on the agenda of any Executive meeting any matter which he wishes, whether or not authority has been delegated to the Executive, a Committee of it or any Member or Officer in respect of that matter. The Chief Executive as the Proper Officer will comply with the Leader's requests in this respect.

Any Member of the Executive may ask the Leader to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where a relevant Policy and Performance Board or the full Council have resolved that an item be considered by the Executive.

The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties.

## **POLICY AND PERFORMANCE BOARD PROCEDURE RULES**

The Council will have the Policy and Performance Boards and Audit and Governance Board set out in Article 6 and will appoint to them as it considers appropriate from time to time. Policy and Performance Boards may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

### **1. POLICY AND PERFORMANCE BOARDS**

1.1 The Council will have 6 Policy and Performance Boards, which will perform overview and scrutiny functions on behalf of the Council. Each Board will consist of 11 Members of the Council. In addition, co-optees may be appointed to the Policy and Performance Boards.

#### **1.2 Powers and Duties of the Policy & Performance Boards**

1. Policy and Performance Boards shall:
  - (i) Initiate new policy proposals for consideration by the Executive Board/ Council;
  - (ii) Monitor performance and offer comments and recommendations for improvement;
  - (iii) Review and make recommendations on policies, strategies and plans;
  - (iv) Promote public confidence in the Council's services;
  - (v) Hold Executive Board Members and senior officers to account;
  - (vi) Monitor Executive Board compliance with agreed policies;
  - (vii) Ensure adherence to the priorities in the Council's Corporate Plan;
  - (viii) Receive a report on any petitions received by the Council relating to the Board's policy area and on any action taken or proposed to be taken by the Executive (or Portfolio Holder or an Officer acting under delegated powers) in relation thereto; and
  - (ix) Monitor, scrutinise and offer comments and recommendations on the performance, effectiveness, policy and plans of key partners and partnerships, in so far as they relate to the remit of each Policy and Performance Board.
2. To receive representations, evidence or expert opinion from outside the Council and to draw conclusions from such representations to the attention of the Executive Board/Council as appropriate.
3. To consult with the public where appropriate in relation to Council services which fall within the terms of reference of the Policy & Performance Board.

4. To review any area of income and expenditure which falls within the remit of the Policy & Performance Board.
5. To make recommendations to the Executive Board on the financial aspects of the proposals which fall within the remit of the Policy & Performance Board.
6. To request the Executive Board where appropriate to make a report to the Council on any decision not included in the Forward Plan which the Policy & Performance Board consider should have been included in the Forward Plan. The Executive Board will be required to explain the decision and why it was not included in the Forward Plan.
7. The Chair of the Policy & Performance Board will receive all papers relating to a decision which is on the Forward Plan when the Forward Plan is finalised and published. The Chair will be entitled to receive these papers at least five days before the decision is taken.
8. To examine systematically the services of the Council within the remit of the Board in order to assess their efficiency, effectiveness, economy, quality and value for money.
9. The Health Policy and Performance Board to examine the healthcare provision within the area in relation to all residents of the Borough. To participate in all initiatives for improving health and the healthcare provision within the area and to call Officers from the Health Authority to account and request them to appear before the Policy and Performance Board when appropriate.
10. To consult with the Executive on any plan or strategy including strategic policy.
11. To monitor the Complaints Procedure and make recommendations to the Executive Board.
12. To provide informed input in response to requests from the Executive Board for advice, options and appraisal on matters falling within the remit of the Policy & Performance Board.

### **1.3 Additional Provision**

Where a matter falls within the remit of more than one Policy and Performance Board, the Scrutiny Coordinator, in consultation with the respective PPB Chairs, shall determine which Policy and Performance Board shall assume responsibility for the particular issue.

No item shall be placed on the agenda of more than one Policy and Performance Board.

Where an item is of interest to Members of another Policy and Performance Board, they shall be entitled to attend the meeting of the PPB considering the matter, as of right.

## **2. Who may sit on Policy and Performance Boards?**

All Councillors except Members of the Executive may be Members of a Policy and Performance Board. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

## **3. Co-optees**

With the exception of the Children, Young People and Families Policy and Performance Board, each Policy and Performance Board shall be entitled to recommend to the Executive Board and Council the appointment of a number of people as non-voting co-optees up to one third of the membership of the Policy and Performance Board. In the case of the Children, Young People and Families Policy and Performance Board, the co-optees consist of diocesan, parent governor, teacher and other educational representatives with the following representatives appointed with voting rights in respect of any question relating to the education functions of the authority's executive (N.B. these co-optees may participate in any discussion on the Board to which they have been appointed, whether or not they have voting rights on the topic under discussion):

- (a) 1 Church of England diocese representative;
- (b) 1 Roman Catholic diocese representative; and
- (c) 2 parent governor representatives.

## **4. Meetings of the Policy and Performance Board**

There shall be at least 4 ordinary meetings of each Policy and Performance Board in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A Policy and Performance Board meeting may be called by the Chair of the relevant Policy and Performance Board, by any 5 Members of the Board or by the Proper Officer if he/she considers it necessary or appropriate.

## **5. Quorum**

The quorum for a Policy and Performance Board shall be as set out in the Conduct of Council Business Rules in Appendix 5 of this Constitution.

## **6. Who chairs Policy and Performance Board meetings?**

The Chair and Vice Chair of each Policy and Performance Board will be appointed by the Council.

## **7. Work programme**

The Policy and Performance Boards will be responsible for setting their own work programme and in doing so they shall take into account wishes of Members on the Board who are not Members of the largest political group on the Council.

## **8. Agenda items**

The Chair of the Policy and Performance Board is responsible for ensuring that the agendas for meetings are focused on the Board's work programme for the year. As part of this process, the Chair will decide which items should be included on the agenda and which items are more suitable for inclusion in the 'News in Brief' publication.

However, any Member of a Policy and Performance Board shall be entitled to give notice to the Chair that he/she wishes an item relevant to the functions of the Board to be included on the agenda for the next available meeting of the Board.

## **9. Policy review and development**

(a) The role of the Policy and Performance Board in relation to the development of the Council's budget and policy framework is set out in the Budget and Policy Framework Procedure Rules

(b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Policy and Performance Boards may make proposals to the Executive (or other relevant decision-makers) for developments in so far as they relate to matters within their terms of reference.

(c) Policy and Performance Boards may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, as long as such payments can be met from within existing budgets.

## **10. Making sure that Policy and Performance Board reports are considered by the Executive or Policy Committees**

(a) The agenda for Executive Board meetings shall include where relevant an item entitled 'Issues arising from Policy and Performance Boards'. The reports of Policy and Performance Board referred to the Executive Board shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the Policy and Performance Board completing its report/recommendations.

(b) Policy and Performance Boards will in any event have access to the Executive Board's Forward Plan and timetable for decisions and intentions regarding consultation. Even where an item is not the subject of detailed proposals from a Policy and Performance Board following a consideration of possible policy/service developments, the Board will be able to respond in the course of the Executive Board's consultation process in relation to any key decision.

## **11. Rights of Policy and Performance Board Members to documents**

(a) In addition to their rights as Councillors, Members of Policy and Performance Boards have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Chapter 4 of this Constitution.

(b) Nothing in this paragraph prevents more detailed liaison between the Executive Board and Policy and Performance Boards as appropriate depending on the particular matter under consideration. A constructive dialogue between the Policy and Performance Boards and the Executive is necessary for effective overview, scrutiny and policy development work.

## **12. Members and Officers giving account**

(a) Any Policy and Performance Board may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may request any Member of the Executive, the Head of Paid Service and any Strategic Director to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance;

and it is the duty of those persons to attend if so required.

(b) Where any Member or Officer is requested to attend a Policy and Performance Board under this provision, the Chair of that Board will inform the Proper Officer. The Proper Officer shall inform the Member or Officer in writing giving at least 10 working days' notice of the meeting at which he/she is to attend. The notice will state the nature of the item on which he/she is to attend to give account and whether any papers are required to be produced for the Board. Where the account to be given to the Board will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the requested date, then the Policy and Performance Board shall in consultation with the Member or Officer arrange an alternative date for attendance.

## **13. Attendance by others**

A Policy and Performance Board may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.



## 14. Call-in

Any matter decided by the Executive Board may be called-in not later than 5 working days after the publication of the Minutes of the Executive Board. At least ten Members of the Council or five Members of the relevant Policy and Performance Board with responsibility for the matter decided by the Executive Board must apply in writing to the Chief Executive on the requisite form for the matter to be called in. Any matter called-in must be considered at the next meeting of the Council which will have power to affirm or reject the decision. If rejected, the Council may refer the decision back to the Executive Board for further consideration. The call-in procedure can only be used once in relation to any particular decision. Once the procedure has been used and a decision confirmed or rejected by the Council the decision cannot be reconsidered.

Once a call-in application is made it cannot be withdrawn after the expiry of the call-in period, namely after the five working days following the publication of the minutes of the Executive Board. A signature to a call-in application can however be withdrawn at any time before expiry of the five working day period. Any notice of withdrawal will only take effect if it is in writing to the Chief Executive. If a signature is withdrawn the proposer will be advised and will need to obtain an alternative signature and notify the Chief Executive within the five day period.

The call-in procedure only applies to the Executive Board.

Decisions requiring immediate action and so specified in the minutes of the Executive Board are also excluded from call-in.

## 15. The party whip

*'The party whip' means:*

*"Any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."*

When considering

- (a) any matter referred to a Policy and Performance Board by the Executive; or
- (b) the review of any decision; or
- (c) the performance of any Member

in respect of which a Member of a Policy and Performance Board is subject to a party whip, the Member must declare the existence of the whip, and the nature of it, before the commencement of the Board's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **16. Procedure at Policy and Performance Board meetings**

(a) Policy and Performance Boards shall consider the following business:

i) minutes of the last meeting;

ii) Public Question Time

iii) declarations of interest (including whipping declarations);

iv) consideration of any matter referred to the Board for a decision in relation to call-in of a decision (if any);

v) consideration of matters included in the Council's Forward Plan (if any);

vi) responses of the Executive Board to reports of the Policy and Performance Board (if any); and

vii) the business otherwise set out on the agenda for the meeting.

(b) Where the Policy and Performance Board conducts an investigation (e.g. with a view to policy development), the Board may also ask people to attend to give evidence at Board meetings which are to be conducted in accordance with the following principles:

i) that the investigation be conducted fairly and all Members of the Board be given the opportunity to ask questions of attendees, and to contribute and speak;

ii) that those assisting the Board by giving evidence be treated with respect and courtesy; and

iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the Board shall prepare a report for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

## **17. Matters within the remit of more than one Policy and Performance Board**

Where a Policy and Performance Board conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Policy and Performance Board (or vice versa), then the Chair of the Committee/Board conducting the review shall invite the Chair of the other Committee/Board (or his/her nominees) to attend its meetings when the matter is being reviewed.

## **18. Member Group Meetings**

The Scrutiny Co-ordinator may call meetings of the Chairs of the Policy and Performance Boards in order to discuss co-ordination of issues, so avoiding duplication, and to share best practice.