

Cabinet Procedure Rules

1. The Operation of the Cabinet

1.1 Who may make Cabinet decisions

The arrangements for the discharge of Cabinet functions are set out in the Cabinet arrangements shown in Part 3. The arrangements provide for Cabinet functions to be discharged by:

- a. the Cabinet or a Cabinet Panel.

These decisions are referred to in this Constitution as “Amber Decisions” if they are delegated to the Cabinet, and as “Red decisions” if they require the approval of the Full Council as set out in Article 4. Amber Decisions are those relating to the functions listed in the delegations to the Cabinet and Cabinet Panels. Red decisions are those matters referred to in Article 4.

- b. an Individual Cabinet Member relating to their individual responsibilities. These decisions are referred to in this Constitution as “Green Decisions”, the definition of which is set out in section 21 – Procedure for Decision-making by Individual Cabinet Members in Part 3.
- c. an employee;
- d. an Area Structure;
- e. joint arrangements; or
- g. another local authority.

1.2 Sub-delegation of Cabinet functions

- a. Where the Cabinet is responsible for a function, it may delegate further to a Designated Officer in consultation with a Cabinet Member or to an employee, an Area Structure, or joint arrangement.
- b. Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated. This means that items of business classified as Green decisions may be referred by the Cabinet Member to the Cabinet for decision.
- c. The Cabinet may, when sub-delegating a Green decision, require that an Opposition Councillor from the relevant Scrutiny Panel be consulted prior to the decision being taken.

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- d. The Cabinet may, when sub-delegating an Amber decision, require that an Opposition Councillor from the relevant Scrutiny Panel be consulted prior to the decision being taken. In such a case the call-in rules will apply.

1.3 The Council's scheme of delegation and Cabinet functions

The Council's scheme of delegation will be subject to adoption by the Full Council and may only be amended by the Full Council. It will contain the details required in Article 7 and is set out in Part 3.

1.4 Conflicts of Interest

- a. If every Cabinet Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Councillors in Part 5 of this Constitution.
- b. If the exercise of a Cabinet function has been delegated to a Designated Officer (in consultation with a Cabinet Member or otherwise) and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Councillors in Part 5.

1.5 Times and Locations of Cabinet meetings

The Council will approve a programme of Ordinary Meetings for the Cabinet and Cabinet Panels. In addition, extraOrdinary Meetings may be called from time to time as appropriate. Meetings shall take place at the Civic Centre or another location to be approved by the Leader.

1.6 Quorum

The quorum for a meeting of the Cabinet shall be three Councillors and for a Cabinet Panel shall be three Councillors.

1.7 How decisions are taken by the Cabinet or by Cabinet Members in consultation with Designated Officers

- a. Red decisions – these are decisions relating to the budget and policy framework. The decision-making process is set out in the Budget and Policy Framework Procedure Rules and the Access to Information Rules in Part 4. They may be considered by the Cabinet or a Cabinet Panel in advance of consideration by the Council.
- b. Amber Decisions - these are decisions which have been delegated to the Cabinet or a Cabinet Panel and will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4.
- c. Green decisions - the Designated Officer will meet regularly with the appropriate Cabinet Member to consider items of business. Items of business will be supported by written reports. If the Cabinet Member is

satisfied with the Designated Officer's recommendation, then the Cabinet Member will make the decision which will be recorded as a Green decision. The decision can then be implemented immediately. Every Green Decision will be published on the Council's web site as soon as it is notified to the Democratic Services team. A schedule of Green decisions will be notified to the next meeting of the Cabinet (Resources) Panel for information. Copies of Green decision reports will be open for inspection in accordance with the Access to Information Rules in Part 4. Cabinet Members must take into account professional, legal and financial implications and any advice given by employees. If any employee gives advice that a decision would fall within one of the exceptions listed in Part 3 or that the matter should not be the subject of an individual Cabinet Member decision, then the matter shall be a decision for the Cabinet.

2. How Cabinet Meetings are Conducted

2.1 Presiding at the meeting

If the Leader is present, he/she will preside. In his/her absence, a person appointed to do so by those present shall preside.

2.2 Attendance at the meeting

- a. Members of the public may attend meetings of the Cabinet unless they are excluded from all or part of the meeting because it is likely in view of the nature of the business to be transacted that Exempt Information would be disclosed.
- b. All Councillors may attend the whole of the meeting unless the Cabinet by resolution decides that they should be excluded from any part of the meeting during which Exempt Information may be disclosed.

2.3 Business conducted at the meeting

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

- a. apologies for absence;
- b. declarations of interest, if any;
- c. consideration of the minutes of the last meeting;
- d. matters referred to the Cabinet (whether by the Scrutiny Board or a Scrutiny Panel 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;

- e. consideration of reports from the Scrutiny Board or Scrutiny Panels; and
- f. matters set out in the agenda for the meeting. The agenda 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.

Subject to any directions given by the person appointed to preside at the meeting the items of business shall be arranged in such order as the Head of Paid Service, in consultation with the relevant Designated Officer(s) thinks will best ensure the effective despatch of business.

2.4 Who can include items on the Cabinet agenda

- a. The Leader
- b. Where the Scrutiny Board or a relevant Scrutiny Panel or the Full Council have resolved that an item be considered by the Cabinet the Head of Paid Service will ensure that an item is placed on the agenda of the next available meeting of the Cabinet.
- c. The Head of Paid Service, the Monitoring Officer or the Section 151 Officer may include an item for consideration on the agenda of a Cabinet meeting and may require such a meeting to be called in pursuance of their statutory duties.

2.5 Consultation

All reports to the Cabinet from any Cabinet Member or an employee on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Panels, 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.

3. Key Decisions

3.1 Period of the Forward Plan

A list of key decisions will be prepared to cover a period of four months. A key decision is an Executive decision which is likely:

- a. to result in the 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 (in Wolverhampton, this is defined as expenditure or savings **in excess of £250,000**), and/or

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

The Forward Plan details 'key decisions' that will be taken by the Cabinet or one of the Cabinet Panels (the Executive) over the coming months. It will include the following information:

- a. the matter in respect of which a decision is to be made;
- b. where the decision maker is an individual, his/her name and title, if any and where the decision maker 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. how, to whom and by when representations (about the "key decision") can be made;
- e. what reports/papers are, or will be, available for public inspection;
- f. whether the report is a private report with reasons.

4. General Exception

4.1 If a matter which is likely to be a key decision has not been included in the Forward Plan, the key decision may still be taken if:

- a. the decision must be taken because it is impracticable to defer the decision, in the opinion of the Chief Executive
- b. the relevant employee has informed the Chair of the Scrutiny Board or a relevant Scrutiny Panel, or if there is no such person, each member of that Scrutiny Panel in writing, by notice, of the matter to which the decision is to be made;
- c. the Democratic Service Officer has made copies of that notice available to the public at the offices of the Council; and
- d. at least five clear days have elapsed since compliance with (a) and (b).

5. Special Urgency

5.1 If the date by which a decision must be taken, makes compliance with section 2 above (general exception) impracticable, then the decision can only be taken if:

- a. the decision maker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair and Vice-Chair of the Scrutiny Board or a relevant Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no such Chair, or if the Chair is unable to act,

then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

- b. the Democratic Service Officer has made copies of that notice available to the public at the offices of the Council;

6. Report to Council where the key decision procedure is not followed

6.1 If the Scrutiny Board or a Scrutiny Panel 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 Chair, or the Mayor/Deputy Mayor of the Council under section 23.6 above (special urgency);

6.2 The Board or Panel may require the Cabinet to submit a report to the Full Council within such reasonable time as the Board or Panel specifies.

7. Cabinet's report to Council

7.1 The Cabinet will prepare a report for submission to the next available meeting of the Full Council. However, if the next meeting of the Full Council is within five days of the decision of the Scrutiny Board or Panel, then the report may be submitted to the meeting after that. The report to Full 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.

8. Reports on special urgency decisions

8.1 The Leader of the Council will submit a report to Council on an annual basis detailing all late reports not on the Forward Plan and all reports authorised for immediate implementation.

9. Record of Decisions

9.1 After any meeting of the Cabinet whether held in public or private, the Democratic Services Officer 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.

10. Cabinet Meetings Relating to Matters Which Are Not Key Decisions

10.1 Cabinet Members will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

- 10.2 Unless otherwise agreed by the members of the relevant Scrutiny Panel, the notice of the meeting and the agenda and reports will be sent to all members of the Panel.

11. Scrutiny Board and Scrutiny Panels Rights to copies of documents

- 11.1 The Scrutiny Board and Scrutiny Panels will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to any business transacted at a meeting of the Cabinet, except any document which is in draft form or which contains the advice of a political adviser.

12. Additional Rights of Access for Councillors

12.1 Material relating to previous business

All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted at a meeting unless either (a.) or (b.) below applies.

- a. it appears to the Proper Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A
- b. it contains the advice of a political adviser.

But a document referred to in (a.) will be available for inspection if:

- the information relates to the financial and business affairs of any particular person (including the Council) except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract or
- the information reveals that the Council proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment.

12.2 Material relating to key decisions

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

12.3 Nature of rights

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